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ABSTRACT

This law-focused resource booklet is intended to help secondary level students learn about the civil law portion of Iowa's judicial system. The materials are designed to help students understand how to deal with conflict in a peaceful and orderly manner and how to cope with decision making in personal law situations as related to the family, the market place, the court of law, and the world of work. Section one, comprising about one half of the guide, contains objectives, case studies for student use, and questions for discussion on the following topics: civil law, court procedures, injury and property damage, motor vehicle torts, world of work, personal finance, love and marriage, and students and school. Section two contains a set of law-related competencies for primary level (K-4), intermediate level (5-8), and secondary level (9-12). This section will be especially helpful to teachers when they are developing law-focused curriculum across grade lines. Section three consists of a bibliography of law-related resources and a list of service organizations. (Author/RM)

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Iowa State Department of Public Instruction. 1977

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Office of the Governor
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ROBERT D. RAY
GOVERNOR

Dear Teacher:

I hope you will find Law-Focused Education--Iowa to be a highly practical resource guide for use in high school social studies courses.

Here in Iowa we believe law-focused education is a good approach for helping develop a student to function effectively as a responsbile decision-maker and concerned citizen. Our young people not only need to understand how to deal with conflict in a peaceful and orderly manner, but also how to cope with decision-making in "personal law" situations as related to the family, the marketplace, the court of law, and the world of work.

Law-Focused Education--Iowa is a resource booklet which will assist your students in learning more about the civil law portion of our state's judicial system. You should find the case study approach employed in "Law and Society" to be of special interest to your students as a motivational way of learning more about civil law in Iowa.

Also included in the resource guide is a set of "law-related competencies" for primary, intermediate, junior and senior high students. Kindergarten through grade twelve teachers should find this section of particular help when developing law-focused curriculum across grade lines.

I hope you will discover Law-Focused Education--Iowa to be of valuable assistance to you this school year.

Best regards.

Sincerely,

Robert D. Ray
Governor

RDR:njm

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LAW AND SOCIETY

CIVIL LAW

SECTION ONE

NOTE: The language of statutes and court cases often refers only to the masculine gender. Because such statutes and cases constitute official LAW, no editorial privilege can be taken with the language. Statutes and cases in LAW & SOCIETY appear at each chapter under the section entitled LAW.

However, wherever the "he" is used in the statutes it includes the word "she."
(Section 4.1, sub section 3, Iowa Code, 1975).

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Grateful acknowledgment is expressed to the Iowa Crime Commission for permission to revise the original version of the "Law and Society" project material. The original project was field tested in the Des Moines Independent Community School District (Washington Irving Junior High and Roosevelt High School).

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INTRODUCTION

To the Teacher:

While the importance of law has always been recognized by social studies educators, instruction in the law has too often been limited to either constitutional law as the basis for our governmental structure or criminal law. Yet, most of our students will encounter civil law much more frequently than the other two. To assist social studies educators, *Law and Society* has been prepared to introduce students to a few basic areas of civil law.

In its present form *Law and Society* is a re-written and updated version of an earlier set of materials of the same title which were prepared by the staff of the Drake Law School under the editorship of Professor Kamilla M. Mazanec. The purpose of *Law and Society* is three fold:

1. To introduce students to key concepts of civil law.

2. To acquaint students with the judicial process in civil cases.

3. To provide students with an opportunity to examine and discuss practical implications of civil law.

Law and Society is not a textbook, but rather is intended to be used as supplemental material by social studies educators. The manner in which the material is used is left to professional judgment. One method may be to have students look at the table of contents, choose a topic of interest, examine the appropriate section, and do outside reading and studying.

Cliff Swartz

ORGANIZATION

Law and Society consists of eight chapters. The first two chapters are introductory to the remaining chapters. Chapter One examines the differences between criminal and civil law, and explains three basic concepts of civil law: torts, contracts, and constitutional rights. Chapter Two provides the procedural context within which civil disputes are adjudicated. The structure of Chapters Three through Eight has been designed to allow students to analyze problem situations of present law. Each chapter is preceded by a series of objectives which focuses on the key topics and establishes student goals for the chapter. At the end of each chapter some open discussion questions are provided for further examination of the key topics. Each chapter consists of a number of problems. Each problem is organized in the following manner:

Facts: Provides the basic facts of a potential civil dispute.

Law: Contains reference to the basic concept or law involved.

Decision: Provides the student with the opportunity of applying the law to the facts and drawing a legal conclusion. In different forms this part of the problem forces the student, individually or as a part of a group, to develop a line of reasoning similar to that which would be required of lawyers and judges.

Sometimes a "variation of the problem" is presented in the chapter. A slight change in the facts may lead to another line of reasoning. These variations add additional facts and, as appropriate, additional laws. The student is then asked to analyze the case in light of these additional elements.

C.S.

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CIVIL LAW

At the end of this chapter you should be able to:

1. *Explain the distinction between civil law and criminal law.*
2. *Define the following terms:*
   a. *Tort.*
   b. *Contract.*
3. *List and explain the three elements required for a negligent act.*
4. *List and explain the five elements required for a contract.*
5. *Find a newspaper report of a suit or a trial for both negligence and a contract problem. Analyze each article, to the extent possible, according to the necessary elements.*

Jim and John walk into a liquor store, draw guns, and demand the money in the cash register.

Mr. Johnson did not fill out and return any federal income tax forms for the last three years.

The police raided a party at the William's and found a large quantity of marijuana.

The individuals involved in each of the above situations have, by their actions, violated a law which our society considers necessary for an orderly life of its citizens. If these individuals are convicted they will be punished by society--punished by the same system which established their actions as illegal.

Law in the United States; however, has other purposes than merely outlining illegal acts and the type of punishment for these acts. Consider the following situations:

Chuck, cutting down a large elm tree in his yard, misjudged the way the tree would fall. It landed on his neighbor's garage and caused considerable damage.

Mary walked across the street at an intersection and was struck by a speeding motorist. Mary suffered severe physical injuries and was in the hospital for weeks.

Jean has a contract with Buildings, Incorporated to keep the land surrounding a series of apartment houses landscaped and mowed. The owner of Buildings, Incorporated fires Jean and hires another person to do the job.

In this second set of situations the individuals may also find themselves involved in our legal system, but not necessarily because of a criminal act. Chuck's neighbor may haul Chuck into court and sue for the damage to the garage. Mary could take legal action against the driver of the speeding car to force that person to pay for medical and other costs caused by the accident. Jean could claim in a court of law that Buildings, Incorporated violated a contract and, therefore, owes her some money. These disputes are private, involving citizens who have problems with each other but not directly with society or the public in general. Society steps into private disputes only as a "judge," to make certain that citizens settle their problems in an orderly and fair manner.

CIVIL AND CRIMINAL LAW

The law of the United States recognizes the differences in the two types of disputes (between a citizen and society on the one hand; between two citizens on the other) by providing for two separate systems:

CRIMINAL LAW deals with public offenses, regulating and judging those actions which society either prohibits or requires for its own order and welfare. (Society versus Citizens) The necessity for criminal law is obvious. For an orderly, safe society, certain things must be made illegal and prohibited, and provisions for punishment are necessary to discourage citizens from participating in these acts.

CIVIL LAW is the method of settling disputes which arise between individuals, including businesses and corporations. (Citizen versus Citizen) Civil law regulates our behavior more than criminal law. It regulates buying and selling of property and goods, our actions in the presence of others, how we drive a car, our marriages, our relationships with those in authority.

The necessity and importance of civil law can be understood by examining the possible outcomes of Chuck's tree cutting episode. Suppose Chuck's neighbor asks Chuck to pay for the damage to the garage and Chuck refuses. What could his neighbor do? Damage Chuck's garage? Steal something? Beat Chuck up? The neighbor could do these things (called "self-help"), but society would not be very orderly if this was the only way to settle private disputes. Instead, Chuck's neighbor can seek a resolution of the dispute in a court of law.

The area of civil law is broad and is the subject of numerous courses in law school. However, the purpose of this material is not to train you as a lawyer, but rather to introduce you to certain major legal concepts: torts, contracts, and personal rights.

Torts

A TORT is usually defined as a private wrong or injury committed by one person against another. Tort law is based on the assumption that in a complex society all of us have reasonable explanations that other people will act with a certain standard of care. A pedestrian can assume that walking on a sidewalk will eliminate the possibility of being hit be a car. Chuck's neighbor can assume that Chuck will not fell his tree on the neighbor's garage. If the actions of one person result in injury to another, it is the purpose of the law to determine whether a tort has been committed and, if such is the case, to require the one who committed the tort **(called a "tort-feasor")** to pay damages to the other person for any losses, inconvenience, and pain caused by the failure to use proper care.

When a tort has been committed, the basic issue of law is the question of liability; that is, who is responsible for the injury? **A person can be liable for damages or injuries to another person in one or two ways: intentionally or through negligence.** Suppose Chuck, in a fit of anger at his neighbor, deliberately cut the tree so that it would fall on the neighbor's garage. Chuck would have committed an intentional tort. He would have acted intentionally in a manner which resulted in the invasion of another person's right to be reasonably free from injury. On the other hand, the misguided falling tree may have been the result of a mistake of judgment on Chuck's part; if so, Chuck could not be accused of an intentional tort, but still could be liable because of his negligence, that is, his failure to act as a reasonable person would have acted in this situation.

The law presumes that a person intends the natural and probable consequences of any action. Intentional torts relate to the consequences which a person desired to accomplish. Unintentional torts relate to those results which are natural and probable, but not necessarily anticipated or desired. For example, if Jack is showing his new rifle to a friend and, in shooting the rifle at a fence post, a bullet ricochets and hits Betty, who is around the corner, has Jack committed a tort? An intentional or unintentional tort?

For a person to be judged guilty of a tort due to negligence three elements must be present:

A duty or standard of conduct owed to the victim.

A breach of that duty (failure to observe this standard of conduct).

A causal connection between the injury and the failure to observe this standard of conduct.

A judge instructing a jury in a torts case might make the following comments about these three requirements:

Standard of Conduct:	What was the accused person's(s) (defendant's) duty or standard of conduct in this case? A standard of conduct is defined as "the ordinary care which a reasonably prudent person would exercise under the circumstances."
Breach of Duty:	Did the person in question (the defendant) violate the victim's right to be free from injury by failing to exercise ordinary care?
Cause:	Was this failure to exercise ordinary care the proximate cause of the injury to the victim?

Simply speaking a jury has only to answer these three questions. However, as might be expected, torts law is more complicated. **The first complicating factor involves the question of what a person's standard of conduct should be.** Who is to decide how a person should act? In some cases this decision will be made by the written laws of society. If a speeding motorist hits a pedestrian who was crossing the street on a green light, it is fairly obvious that the motorist has violated a standard of conduct--a standard which is based on laws regulating speed and stopping at red lights. Such conduct then constitutes negligence per se. In other cases, the standard of conduct may be less clear and a jury or a judge will not be able to fall back on law. Rather, they will have to use common sense to determine what the standard of conduct should have been depending on the facts of a particular case.

The second major complicating factor deals with the phrase "proximate cause." In injury cases, proximate cause is defined as the last negligent act, without which injury would not have resulted. (See also Concept of Proximate Cause page I-26.) Chuck's chopping of his tree is obviously the proximate cause of the damage to his neighbor's garage. In other cases, many causes of damage may be present. It will then be the job of the jury to decide which cause was the "proximate" cause. The problem of determining proximate cause will, in many cases, become the key focus in court.

Contracts

The mention of the word "contract" probably raises images of numerous sheets of paper, filled with small print and hard-to-understand phrases. And some contracts are like that. But we would not recognize many other contracts if this is what we were looking for. **A contract is essentially an agreement,** and agreements are found in many forms--simple and complicated, short and long, obvious and not so obvious. We buy groceries, we write checks, we get married (and some have our marriages dissolved). We make many agreements and promises in satisfying our habit of living–and thereby we enter into contracts.

The legal treatment of contracts, however, is not as simple as that brief definition might imply. All kinds of questions about contracts must be handled by the law: Who can enter into a contract? What elements are necessary for a valid contract? What makes a contract void? These questions provide the basis for the problems with which courts have to deal. Let's look at an expanded, legal definition of a contract and examine its various elements:

> *It is an agreement creating obligation(s), in which there must be 1) competent parties, 2) subject matter, 3) legal considerations, 4) mutuality of agreement, and 5) mutuality of obligation; and an agreement must not be so vague or uncertain that terms are not ascertainable.* Liebus vs. Klengenberg, 23 f. 2d 611 (9th Cir. 1928)

COMPETENT PARTIES: The law, both in the *Iowa Code* or in specific court decisions has recognized that some people are not capable of entering into contracts. Keep in mind that a question of a person's competency to enter into a contract would never come up in court unless a person had actually made a contract. In other words, it is difficult to make general statements in this area (as in all other areas of law). Minors are not considered competent to enter into some kinds of contracts. People with severe mental disorders are generally not considered competent to make contracts. Someone under the influence of alcohol or narcotics would, in most instances, be considered incapable of making contracts.

SUBJECT MATTER: The subject matter of a contract must be enforceable in a court of law. This requirement basically means that the actions of a contract cannot be illegal. (You can't drag Harry "The Hit Man" into court because he failed to knock off a person according to the terms of your agreement).

LEGAL CONSIDERATION: A contract must contain a consideration; that is, something which is being given up by the persons entering into the contract. Sometimes, the consideration may just be the promise, but usually it is something more tangible such as money or property. If you agreed to buy your friend's house and gave a dollar in consideration until you could pay the remainder, something has been given up.

MUTUALITY OF AGREEMENT: The parties to the contract must have agreed to the same bargain at the same time and all of the terms. That is, there must be "a meeting of the minds." Suppose your friend says, "I'll sell you my 10 speed for one hundred dollars." Obviously no agreement. What if you respond, "I'll give you the one hundred dollars next week." Again, no agreement, at least not yet, because your friend did not mention anything about next week. An important factor with regard to this element of a contract is what constitutes evidence of the mutuality of agreement. A signature on a written contract would be pretty good evidence. But contracts do not have to be written to be valid; an oral agreement may be just as valid as a written one. A spoken statement of agreement would then be evidence of assent. Maybe even the nod of your head or the raising of a finger, actions which frequently occur at auctions, would be evidence.

MUTUALITY OF OBLIGATION: If your best friend agreed to give you one hundred dollars and you said, "Okay," but that was the extent of the agreement, it would not be called a contract. Both parties to an agreement must have an obligation to do something or to give something up. If, in exchange for the one hundred dollars, you agreed to give your friend a stereo, mutual obligation would exist and a contract would have been created.

Personal Rights

The *Constitution of the United States*, in addition to setting up the organization of our government, guarantees certain personal rights for the citizens of this country. Undoubtedly you have encountered some of these rights before. Most of these rights are contained in the *Bill of Rights* (the first ten amendments), although other portions of the *Constitution* also refer to personal rights. The freedoms of speech, assembly, and religious practice are among those guaranteed rights.

The power of the law preserves these rights for you. If the government interferes with one of these rights, you have been wronged. You could take your case to court and ask the court to order an end to that violation. For example, suppose that you and some of your friends decided to meet to discuss ways of electing a new mayor for your town, and the police, under orders from the mayor, broke up your meeting. Your right to peaceful assembly would have been violated. You could ask a court to issue an **injunction (an order of the court)** against the mayor and the police, restraining their efforts to stop your meeting.

It sounds simple. A list of personal rights which others have to respect that guarantee that you can do some things without fear of someone stopping you. But it is'nt quite that simple. First of all, the rights guaranteed to you by the *Constitution* are stated in general terms. Second, in exercising your rights you cannot violate the rights of others. So, when a case of possible violation of a personal right comes to court, the judge or jury have to decide whether a person actually had a guaranteed right in the specific instance. Your right to free speech may clarify the problem. You are guaranteed the right to speak your piece, to say what's on your mind. But would you have this right if, to use a classic example, you yelled "Fire" in a crowded theater when, in fact, there was no fire? No. Would you have the right to make a political speech? What if this speech caused your listeners to riot? An interesting question and one that a court would have to decide after listening to the evidence.

Two Important Aspects of Law

You may have started to develop an image of the law as a complicated business. And it is. Two points of law, however, are easy to grasp and yet important for us to keep in mind.

First, law is applied to specific cases which come before a court--real problems of real people. Courts do not decide hypothetical cases or give advice as to what the law is in general. Therefore, only after the decision of a court is made can anyone tell what the decision will be. In other words, it is difficult for anyone to predict accurately the outcome of a certain case. As you examine the cases (some actual, some not) in the remaining chapters, keep this concept in mind: that a decision reached in any of these cases will not give you an ability to predict conclusively outcomes in similar cases which may arise in the future.

Second, a major characteristic of the law is change. Law is a function and product of society and therefore changes as the needs, attitudes, and problems of society change. What may have been considered law twenty years ago may not be valid today. Twenty years ago a school regulation requiring short hair would probably not have been considered a violation of any personal rights. Today such a regulation would probably not hold up in court: it would be considered a violation of a personal right. Some of the written laws and court decisions you will encounter in this book also may no longer be valid.

QUESTIONS FOR DISCUSSION

1. How might our society differ if there were no provisions for the settlement of private disputes, but only a system of criminal law?

2. How important to our conduct is the predictability of the conduct of others? Discuss in respect to everyday situations. How does civil law contribute to this predictability?

3. Why might minors be considered legally incompetent to enter into a contract?

Notes:

DEVELOP YOUR OWN "BASIC PROBLEM"

for

CIVIL LAW

BASIC PROBLEM NUMBER ONE

Facts

Law

Decision

VARIATION ON PROBLEM NUMBER ONE (Your own)

_____

(Identify nature of "variation" in space provided)

Facts

Law

Decision

_____

Student Name

2

WHAT HAPPENS IN COURT

In this chapter you will examine the basic legal procedures. After this study you should be able to:

1. *Explain the purposes which a person may have in mind when bringing a civil action?*
2. *List and describe the four basic pre-trial phases.*
3. *List and explain the five basic phases of a trial.*
4. *Develop an item of evidence for an imaginary negligence action related to an automobile accident for each of the following characteristics of evidence:*
   a. *Relevancy*
   b. *Hearsay*
   c. *Opinion*
   d. *Reliability of witness*
5. *List and describe the functions of the various participants in a trial.*

"Order in the court."
"Objection overruled."
"Will the bailiff swear in the witness, please."

Phrases such as these are probably familiar to many of you, particularly if you have viewed any courtroom drama on television. Your experience with courts whether through television or actual experience, may bring to mind a variety of additional thoughts or images. Perhaps the image of a judge comes to mind--a judge presiding quietly, except for occasional comments like those above, and elevated above the other participants. Or maybe your imagination has been captured by a lawyer who strides confidently back and forth, questioning a witness. Most of us have some awareness of what happens in court. In this section we will look at "behind the scenes" of civil courtroom procedures and examine two basic questions: What is the purpose of civil court action? and What happens in court?

Purpose of Civil Action

The purpose of our system of civil law is to provide private citizens with a civilized "battleground" to resolve their problems. Every citizen has the right to sue another in a civil court over a legitimate dispute. A large number of lawsuits never make it to the trial stage. Sometimes agreement is reached before a trial is begun. The legal term for such an agreement is an **"out of court settlement."** Some disputes are submitted to a disinterested third person whose task is to examine the facts and make a decision. The legal term for this procedure is arbitration. Arbitration is frequently used to resolve disputes between employers and employees. However, some disputes are too complicated or too involved to be settled in any other way than by a trial.

Remember the example of Chuck who felled a tree on his neighbor's garage (see page 1-9). The resulting dispute over who might pay for the damage could have been resolved in a variety of ways. In the emotion of the situation they could have had a fistfight in the back yard--not a very civilized way to go about solving their problem. In a more rational mood they might have calmly discussed the problem with the result probably being that Chuck would agree to reimburse his neighbor for the cost of repair. However, the issue could

develop complications. Chuck might feel that it wasn't entirely his fault: maybe a big wind came up just as Chuck struck the final axe blow and caused the tree to fall in a direction other than planned. Or maybe Chuck feels that the amount of damages which his neighbor is asking is too high. If for whatever reason, Chuck and his neighbor cannot reach an agreement, they then could initiate legal procedures which will resolve their dispute.

Reason for Initiating a Lawsuit

The reason for initiating a lawsuit against another person and eventually going to trial is simply to obtain satisfaction or relief from the actions of that person. In the formal statement to the court the person who initiates a suit, in addition to presenting the case, will ask the court for a judgment which will order the alleged wrongdoer to do one or more of three things depending on the nature of the case:

MONETARY COMPENSATION: If the harmful action resulted in physical injury or damage to property, the lawsuit will ask for a specific amount of money to compensate the victim for the injury or damage. Suppose that you had been in an automobile accident which resulted in $2,000 in medical bills; $3,000 damage to your car; and a $900 loss of income while you were in the hospital. The minimum amount which you might seek in your suit would be $5,900. However, you may ask for much more compensation, depending on the nature of your injuries. Perhaps, the accident resulted in the loss of an arm, or partial paralysis, or total disability. A judge or a jury would not have to agree to the amount of compensation which you stated, but they could not award you more money if they ruled in your favor.

DECLARATION OF RIGHTS: In some lawsuits no money compensation is sought. Rather, a statement of a person's rights is the sole focus of the legal proceedings. Maybe you have been kicked off the swimming team because you were arrested for drinking. You might ask a court in a lawsuit to declare that your rights had been violated. This type of relief is not commonly sought because the court is simply making a declaration and is not ordering anyone to do anything.

SPECIFIC ACTION: In seeking this type of legal relief, a person is asking the court to order another person to do something or to stop doing something. Such an order is called an injunction. Suppose that you signed a contract to buy a car and made a down payment, but the seller refused to give you the car. You could seek a court order for the seller to deliver the car. Or perhaps the students at your school have decided to protest some action of the administration by staging a sit-in in the cafeteria. The administration might go to court for an injunction to stop the sit-in. For whatever reason, this type of relief will result in a court order to stop whatever action is judged to be harmful or could be harmful to a person, a person's rights, or a person's property.

These three objectives (monetary compensation, declaration of rights, or specific action) cover the basic reasons for going to civil court. However, one area of civil law that commonly includes a seemingly different purpose is **family law.** Here the reasons for going to court are more specific, namely, **to seek a dissolution of a marriage, to divide the family property in case of a dissolution, or to award custody of the children to one or both the parents.**

Participants in Civil Courts

JUDGE
A lawyer by training, the judge is at the head of the courtroom. It is the judge's responsibility to manage a trial and to insure an orderly and fair trial. In cases of trial without a jury, the judge must also render a verdict.

PLAINTIFF
The plaintiff is the person who initiates a lawsuit.

DEFENDANT
The defendant is the person against whom a lawsuit is filed.

LAWYERS
Normally, lawyers are retained by both the plaintiff and defendant to represent them in civil proceedings. A lawyer assumes the responsibility for presenting and arguing the client's case.

JURY
A certain number (in Iowa, twelve) of citizens selected to hear the case and render a verdict at the end of a trial.

BAILIFF
The bailiff is an official of the court with primary responsibilities for keeping order, swearing in witnesses, and guarding the jury.

CLERK OF COURT
The clerk manages all the paper work required for the conduct of a trial. In particular, the clerk marks and manages all documents and exhibits.

COURT REPORTER
The reporter, usually using a special stenographic machine, makes a verbatum record of court proceedings.

Once it has been determined that there is a valid reason for going to court, a whole set of legal actions will take place. The actions can be divided into two phases: Pre-trial and trial. The legal proceedings look like this:

Legal Proceedings

PRE-TRIAL PHASE

1. **Petition**

   The **plaintiff** or person who is accusing another of wrongful or harmful action initiates formal, legal proceedings by filing a petition or complaint with the proper court. This petition basically will contain:

   Name of the alleged wrongdoer (the defendant)
   Specific facts of the wrongful act
   Appropriate references to law
   Specific relief sought

2. **Service of Process**

   After the **petition** is filed, the notice of the petition (or complaint) must be served or delivered to the defendant. In most cases, the law requires that this service must be in person; that is, the notice must be handed to the defendant by a process server.

3. **Answer**

   The **defendant,** once served, has the responsibility to file a formal, written answer. If the defendant fails to answer the charges, a default judgment occurs in favor of the plaintiff. In the answer the defendant can do a number of things. One of the things which could be done would be to file a motion which asks the court to throw the plaintiff's petition out for lack of a real complaint. Or, the defendant could deny the charges in the petition. Another type of answer might contain an admission to the truth of the alleged facts, but a denial that those facts have any connection with possible liability. Finally, the defendant can file a counterclaim, a statement accusing the plaintiff of wrongful action.

4. **Discovery**

   Discovery is an important, pre-trial procedure which allows the defendant to have access to the sources of information on which the plaintiff has built a case. For example, a defendant in a personal injury suit for damages could examine the plaintiff's medical records or question any witness the plaintiff planned to call. In short, **discovery is designed to insure that a trial will be fair.** Otherwise a plaintiff could introduce damaging evidence for which the defendant might not be prepared.

TRIAL PHASE

If a case survives all the pre-trial proceedings, the parties go to court on a date which has been set by the judge.

1. **Jury Selection**

   Both parties, plaintiff and defendant, have a right to a jury trial in most types of civil cases. However, in some types of civil action the law does not permit a jury; instead the case is tried before a judge alone. In Iowa, cases involving the dissolution of a marriage are tried before a judge. In other cases both the plaintiff and defendant feel that a judge would make the best decision, even though they could have a jury trial. Can you think of some reasons for waiving the right to a jury trial? Can you also think of some reasons why cases in which monetary compensation is sought are almost always tried by a jury?

   If a jury trial is wanted by either the plaintiff or the defendant, the first order of business is to select jurors from a large number of people who have been ordered to report to the court. If the potential juror is found to have a bias pertinent to the case, then that person may be challenged by either attorney. If the challenge is accepted by the judge then that person is excused. (For example, a potential juror who is a personal friend of the defendant would probably not be allowed to serve). This process of selecting a jury is intended to insure that the case will be heard by twelve (or in some states fewer than twelve) persons who will be as objective as possible.

2. **Plaintiff's Case**

The plaintiff, having made the charge, has the burden of proof. The plaintiff's case begins with an opening statement which is a summary of what the claim is and how it will be proved. This statement is followed by the presentation of the **evidence: any oral testimony and exhibits.** Each witness is asked carefully prepared questions, the answers to which are intended to prove the plaintiff's case. The defendant's attorney has the right to cross-examine each witness. Cross-examination has two basic purposes: to raise questions about the accuracy of the witness's testimony or to destroy the credibility of the witness.

3. **Defendant's Response**

After the plaintiff rests the case, the defendant has the right to respond and present evidence. The procedure in this stage is the same as for the plaintiff case: opening statement, examination, and cross-examination of testimony.

4. **Submission of the Case to the Jury**

Now the case is submitted to the jury for their decision. Before the jury actually retires to deliberate, two final actions occur. First, the attorneys for both sides are allowed to make closing statements which summarize their claims. Second, the judge must instruct the jury. At this point the judge is not concerned with the facts of the case. Rather, he explains the laws involved and what issues have to be determined. For example, in a case involving personal injury and possible negligence, the judge would probably explain the concept of negligence and what behavior must have been present for the jury to determine the defendant's possible negligence. In a trial without a jury, the judge would adjourn the court until a later date when a verdict would be rendered.

5. **Verdict and Judgment**

Depending on the complexity of the case, the jury (or the judge) may reach a verdict in a short time or many days. **In Iowa a verdict must be the unanimous decision of all twelve jurors; otherwise a hung jury results and the case must be retried or otherwise dropped by the plaintiff.** What, do you think, is the rationale for requiring a unanimous verdict? Some states do not require unanimity.

Once a decision is reached the jury returns to the courtroom and the foreman of the jury reads the verdict. The verdict is usually quite simple, indicating in whose favor, plaintiff or defendant, the jury decided. If appropriate, the verdict will also mention the amount of monetary compensation awarded.

If the jury decided in favor of the plaintiff, the judge will either order the plaintiff to recover the specified amount of money from the defendant or order the defendant to do or stop doing some action. If the jury found in favor of the defendant, the judge will simply close the case.

In the judgment, the judge assumes that the court's order will be followed, but no provisions will be made to enforce the judgment. In a case in which money compensation has been awarded, it is left to the plaintiff to recover the money from the defendant. Upon a request from the plaintiff, however, the **judge may issue a writ of execution, a procedure for the public sale of some or all of the defendant's property to provide the necessary money.** *In some types of civil cases, a defendant who fails to perform according to the court order may be held in contempt of court and fined or even jailed.* In short, the court can enforce its judgments if necessary.

Rules of Evidence

The key factor in a trial is the **evidence.** Each attorney will present the judge or the jury with evidence, in the form of oral testimony, documents, or objects, which will prove the truth or falseness of any claim. Because of the great importance of evidence, both federal and state courts have developed an elaborate set of rules for the presentation of evidence. The purpose of these rules is to insure that the **evidence will be fair, reliable, and appropriate** for a particular trial.

As an introduction to rules of evidence examine the hypothetical case given below and the *"items of evidence"* which follow to determine which of the items of evidence would be appropriate.

Jill S. has filed suit against Bill W. in the amount of $100.00 for breach of contract. Jill had agreed to buy Bill's car and has given Bill $100.00 promising to return the following day with the remaining $900.00. When Jill returned to close the deal, she noticed that the mag wheels, which had been on the car the previous day, were not there. She refused to buy the car without the wheels. Bill claimed that the wheels had not been part of the deal and refused to return Jill's $100.00.

Assume that the following evidence is introduced during this trial. Examine and discuss the fairness and appropriateness of each item for the case.

1. Testimony by Jill's friend who had accompanied Jill to look at the car that the wheels had been on the car at that time.

2. Testimony by another of Jill's friends who had not been with Jill but had heard Jill talking about the car, including the mag wheels.

3. Testimony from another person who claimed that Bill W. had cheated people before.

4. A newspaper advertisement which mentioned the mag wheels.

5. A statement by a friend of Bill's that Bill, in fact, had a set of mag wheels.

How would these items of evidence hold up under the **rules of evidence?**

1. RELEVANCY

This rule provides that the evidence must pertain directly to the case at hand. In the case of Jill vs. Bill, the evidence in items 1, 2, and 4 pertain directly to the case. Item 3 made no mention of the specific case, but rather apparently referred to the possibility of previous efforts of Bill to cheat people. Because this testimony has no direct and appropriate connection to this case, it would probably not be allowed in court. Item 5 seems to be appropriate, but it would probably not be allowed either. Why? The question of whether Bill had a set of mag wheels is not an issue.

2. HEARSAY

Hearsay evidence is the testimony of a witness to a statement by another person who supposedly made the statement out of court. Hearsay is second hand and unreliable evidence, and, except in unusual circumstances, the court will not allow it to be presented. In the case of Jill vs. Bill, item 2 would probably be thrown out because it is hearsay testimony, even though it does meet the test of relevancy.

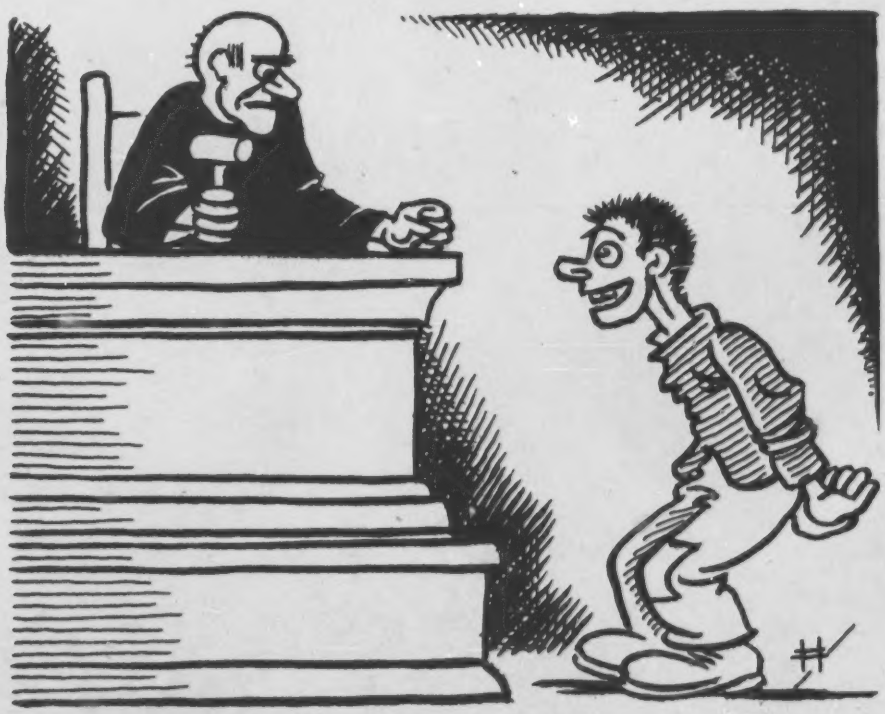
3. OPINION

Normally a person's opinion is not considered admissible evidence. However, courts do allow experts, such as medical doctors, to give opinion on matters in their field of expertise.

4. RELIABILITY OF THE WITNESS

Any person who is capable of observing and remembering and communicating what was observed would be considered a reliable witness. Normally, small children would not be considered reliable witnesses. Can you think of others who would not be reliable witnesses?

In the case of Jill versus Bill only examples of evidence 1 and 4 appear to meet the test of the rules of evidence. It should be pointed out that these **rules of evidence are not automatically enforced by a judge in a trial.** Rather it is up to the attorneys to raise objections to supposedly inadmissable evidence; the judge will then decide, declaring **"Objection overruled"** or **"Objection sustained."**



QUESTIONS FOR DISCUSSION

1. How might a jury fairly determine the amount of monetary compensation for the loss of a leg? Eyesight? Paralysis?
2. Is a trial by a jury the best way to decide a dispute? What are the alternatives?
3. Why might a person waive a jury trial?
4. How is a person chosen for jury duty in your community?
5. Review the material in this section by briefly describing the following elements of civil court procedure:
    1. The petition or complaint
    2. The answer
    3. Discovery
    4. Jury selection
    5. Opening statement
    6. Examination of the evidence
    7. Cross-examination
    8. Instructions to the jury
    9. Verdict
    10. Court order

NOTES:

DEVELOP YOUR OWN "BASIC PROBLEM"

for

WHAT HAPPENS IN COURT

BASIC PROBLEM NUMBER ONE

Facts

Law

Decision

VARIATION ON PROBLEM NUMBER ONE (Your own)

_____

(Identify nature of "variation" in space provided)

Facts

Law

Decision

_____

Student Name

3

INJURY AND PROPERTY DAMAGE

Personal injury comprises a large part of the problems of civil law. After studying this chapter you should be able to:

1. *Explain what standard of conduct is required of you in:*
   a. *Driving a car.*
   b. *Engaging in an athletic activity.*
   c. *Your general relationship with other people.*
2. *Define:*
   a. *Contributory negligence.*
   b. *Recklessness.*
   c. *Slander.*
   d. *Assault.*
3. *Find a newspaper report of a suit for personal injury. Explain the report in respect to:*
   a. *Whether it is based on an intentional or negligent tort.*
   b. *What the plaintiff will be required to prove in court.*

As children, either in home or at school, many of us may have been involved in a dialogue that went something like this:

"You shoved me."
"No, I didn't. You fell."
"Well, it was your fault."

This is a common situation which is usually settled out of court and without lawyers. However, problems similar to this are before the courts constantly--cases of personal injury or property damage. Then, the courts and lawyers enter in, and the question of liability--who caused the injury or damage--becomes extremely important. The problems in this chapter are problems of personal injury, physical or otherwise, and property damage.

BASIC PROBLEM NUMBER ONE

FACTS

Late for school again, Jack sprinted the last few blocks. Ignoring the heavy traffic, he dashed across the last street against a red light. As he neared the curb, a car, traveling 25 mph in a 30 mph zone, struck him and broke his leg and wrist. Jack and his parents have sued the driver of the car for damages. As the case is argued in court, the following laws and legal concepts are brought out.

LAW

1. *Iowa Code, Section 321.325 (1975).* "Pedestrians shall be subject to traffic control signals at intersections."*
2. **Concept of Contributory Negligence.** The law of Iowa provides that if a person who has been injured or damaged was negligent, and such negligence was a "proximate cause" of his

*All statutory references in these materials are to the 1975 Iowa Code, unless specified otherwise.

injury or damage, then he cannot recover from another. (Bauman vs. City of Waverly, 164 N.W. 2d 840, 845 Iowa, 1969). (NOTE: Review materials on Negligence on page 2.)

3. **Concept of Proximate Cause.** The test of proximate cause is whether ordinary prudence would have suggested to the person sought to be charged with negligence that his act or failure to act would probably result in injury to someone.

4. **Concept of Unforeseen Consequences.** In Cowman vs. Hansen, an Iowa case, the court stated: "It is not necessary to a defendant's liability that the consequences of his negligence should have been foreseen. It is sufficient if injuries are natural, though not the necessary or inevitable, result of the wrong. The test, after all, is, would ordinary prudence have suggested to the person sought to be charged with negligence that his act or omission would probably result in injury to someone?" (250 Iowa 358, 92 N.W. 2d 682 (1958)

DECISION (Possible)

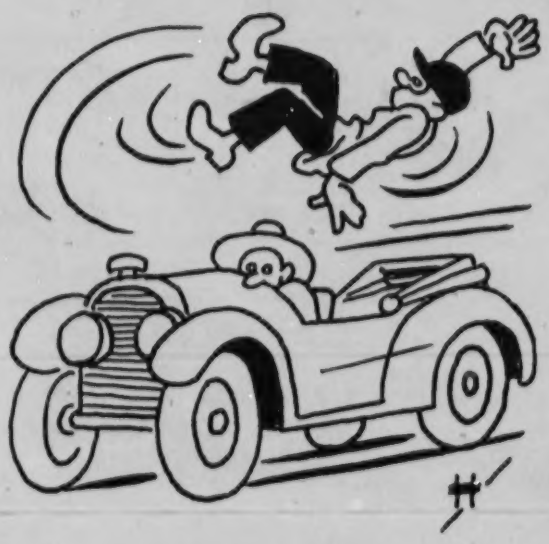
The plaintiffs, Jack and his parents, in this case, are seeking to recover from the defendant, the driver of the car. (NOTE: In an actual court case the plaintiff would have to demand recovery in a specific dollar amount). In their petition the plaintiffs state that the defendant committed a tort through negligence against Jack. The court, then, must answer two questions:

1. Did the driver of the car fail to exercise ordinary care which Jack had a right to expect?

2. If the driver did violate a standard of conduct, was this violation a proximate cause of Jack's injuries?

It is obvious that the operation of the car caused Jack's injuries. However, the facts of the case do not show any evidence that the driver of the car failed to exercise ordinary care. The driver was obeying the traffic laws at the time of the accident, including the speed limit and the traffic signal. In the absence of a violation of a standard of conduct, the actions of the driver cannot be considered to be a proximate cause of the accident.

Furthermore, Jack himself acted in a negligent fashion by crossing the street against the red light. **Iowa law provides that an injured person who was negligent, and his negligence was a proximate cause of injury, cannot recover damages from another.** Thus, even if the defendant had been negligent, Jack could not recover damages from the defendant. The court therefore finds for the defendant.



VARIATION ON PROBLEM NUMBER ONE

1. Variation with Element of Speeding

   Facts:

   The same situation except that the car was going 40 mph.

   Law:

   Consider the laws already presented in the basic problem.

   Decision:

   How would you decide? What would your reasoning be?

2. Variation with Element of Recklessness

   Facts:

   The same situation except that the driver of the car was going 90 mph in a 25 mph zone.

   Law:

   Consider previous laws and the following new legal concept: **Recklessness implies an absence of all care,** whereas **negligence implies only a failure to exercise ordinary** care. As applied to the operation of an automobile, recklessness signifies an absence of all care, coupled with a state of mind which disregards obvious consequences. If the conduct of the driver of a car is found to be reckless, contributory negligence cannot be used as a defense by the driver. Excessive speeding is a reckless act.

Decision:

You decide.

3. Variation with Element of Brake Failure

Facts:

The same situation, except that the brakes on the car were defective, although the driver did not know this. It was the failure of these defective brakes which caused the car to hit Jack.

Law:

The Iowa Supreme Court, in Amelsburg vs. Lunning, held that the failure of automobile brakes which have previously functioned properly does not make the driver of a car negligent, unless the driver had knowledge of the defective condition. If the driver had knowledge of the defective condition, it still may be possible to use the concept of contributory negligence as a proper defense.

Decision:

You are the judge. Make a decision.

BASIC PROBLEM NUMBER TWO

FACTS

Randy and Susan were playing catch with a football back and forth across the street. Randy threw a long, high one which fell short and hit the windshield of a passing car. The driver of the car became confused, stepped on the accelerator, accidentally ran a red light and hit another car which was passing through the intersection legally. The driver of the second car sued Randy and Susan for damages, claiming that they caused the accident.

Assume that you are the attorney for the plaintiff, develop your case using the following legal concepts. Be sure to include an argument against the defendant's probable statement that the driver of the first car is liable.

LAW

1. Concept of negligence and ordinary care as explained previously. (See page I-25).

2. Concept of proximate cause as explained previously. (See pages I-11, 26.)

3. Concept of **emergency situations:** The law considers the effect of emergency situations on the actions of people. An **emergency is defined as a sudden or unexpected event or combination of circumstances and provides a "legal excuse" for the person's conduct.** An emergency is one of the circumstances which must be considered to determine if a person has failed to exercise ordinary care.

DECISION

How does your reasoning respond to the following issues:

1. Randy and Susan could not have foreseen that such a freak accident would occur. Therefore, they did not fail to exercise ordinary care--a necessary element for committing a tort through negligence.

2. The driver of the first car should have been able to control the car.

VARIATIONS ON PROBLEM NUMBER TWO

1. Variation Number One

Facts:

Randy and Susan were playing football on the sidewalk. Running backward for a ball, Randy bumped into an elderly gentleman and knocked him into the street where he was hit by a passing car. Who is liable? Susan? Both Randy and Susan? Or neither one?

Law:

a. Concepts of Negligence and Proximate Cause. (See pages I-11,25,26.)

b. Joint tort-feasors (the word **feasor derives from Latin and means "one who makes," so joint tort-feasors are ones who commit a tort together**). Where two or more persons united in a concerted action which results in an injury to another, or where their independent acts concur in producing an injury to another, each is considered a tort-feasor and each will be responsible for the entire amount of the damage.

Decision:

Who would you judge to be liable? What is your reasoning?

2. Variation Number Two

Facts:

Randy and Susan were playing football on the sidewalk. Running out for a pass, Susan ran into a telephone pole and broke her arm. Susan sued Randy for damages.

Law:

Same as in Basic Problem.

Decision:

You decide.

BASIC PROBLEM NUMBER THREE

FACTS

Marcia had bounced into the classroom late, as usual, and disturbed the other students. Although such behavior had become almost routine, Ms. Wicks, the teacher, had ignored it. Later in the same period, however, Marcia again distracted the class. This second disturbance was too much for Ms. Wicks. "Marcia, you are a disgrace. You have been continually tardy. You disrupt the class every chance you get. And, worse yet, you are stupid and lazy. I am sure that you must be very unhappy, having to come to this class day after day, yet knowing that you don't have the ability to understand what we are doing. However, I can remedy that. You are dismissed from this class." Because of statements made by Ms. Wicks in front of the entire class, Marcia decided to sue the teacher on the grounds that Ms. Wicks had committed a tort of defamation of character by slander.

LAW

1. Tort of Slander: Freedom of speech is basic to our democratic society, but this freedom does have its limits. The law of slander provides one of these limits. **Slander is a statement which damages the reputation of another person.** The tort of slander requires the presence of four elements:

   a. The statement must be spoken. This is in contrast to a printed statement which forms the basis for the tort of libel.

   b. The statement must be made to someone other than the person about whom the statement is made. It is not enough to make a damaging statement about a person when that person is the only one present. It is enough, however, if the statement is overheard by someone else.

   c. The statement must be false. Truth is a defense to a charge of slander even if the true statement damages a person's reputation.

   d. The reputation of the person about whom the statement was made must be damaged. This is often a difficult element to prove. However, the law recognizes certain statements as being automatically damaging and no actual proof of damage is necessary. This type of slander is termed **slander per se** and is limited to statements which accuse a person of a specific crime, describe a person as having a despicable disease (e.g., venereal disease), refer to a person's business, occupation or profession, or, finally, allege that a woman is unchaste. If a statement does not fit into one of these four categories, then the person slandered must prove that his reputation' has been damaged. This type of slander is termed **slander per quod.**

2. **Slander is an intentional tort.** However, the necessary intent refers to only the statement; that is, the speaker must have intended to say what was said. It is not necessary for the speaker to have intended to harm the victim.

DECISION

1. Were Ms. Wicks' statements about Marcia slanderous per se or per quod?

2. If you were her attorney, how would you plead Ms. Wicks' case?

VARIATION ON PROBLEM NUMBER THREE

Facts (Element of Personal Loss):

Assume the same situation with the following additional information. Marcia was going to receive a college merit scholarship worth one thousand dollars. The school officials, hearing about Ms. Wicks' statements, refused to recommend Marcia for college admission, causing her to lose the scholarship.

Law:

Same as in basic problem.

Decision:

You decide and support your decision.

BASIC PROBLEM NUMBER FOUR

FACTS

Doug did not like to be ridiculed in front of his friends. So when Mr. Jackson, the teacher, derided him, Doug lost his temper. He walked up to the front of the room, seized the teacher's desk and flipped it over on its side. He then stalked out of the room. Unfortunately, Mr. Jackson had a heart condition. When Doug tipped the desk over, Mr. Jackson had a heart attack, brought on by fright, and subsequently required extensive medical care. Mr. Jackson decided not to press the criminal charge of assault against Doug, but has sued Doug and his parents (since Doug is a minor) for damages.

LAW

1. ASSAULT. An assault is an intentional tort, as well as a potential crime. **Acts which threaten violence to another's person, coupled with the ability to do violence, constitute an assault.**

2. JUSTIFICATION FOR ASSAULT: Mere words, no matter how abusive or insulting they may be, cannot justify an assault.

3. DAMAGES: Damages recoverable for assault include mental disturbance, fright, and humiliation, plus any physical illness which may result.

4. PARENTAL RESPONSIBILITY: *(Iowa Code, Section 613.16 (1975))*

   a. "The parent or parents of an unemancipated minor child under the age of eighteen years shall be liable for actual damages to person or property caused by unlawful acts of such child. However, a parent who is not entitled to legal custody of the minor child at the time of the unlawful act shall not be liable for such damages."

   b. "The **legal obligation** of the parent or parents of an unemancipated minor child under the age of eighteen years to pay damages shall be limited as follows:

      (1) Not more than one thousand dollars for any one act.

      (2) Not more than two thousand dollars, payable to the same claimant, for two or more acts."

   c. "The word **'person'** for the purpose of this Act shall include firm, association, partnership, or corporation."

   d. "When an action is brought on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as defendant."

5. LIABILITY OF A MINOR *(Iowa Code, Section 624.38 (1975))*

   "The provisions of section 613.16 shall not limit any liability of any minor for his own acts and shall not limit any liability imposed by the common law or by any other provision of the *Code*."

DECISION

1. Did Doug threaten Mr. Jackson with any physical harm?

2. Was Doug capable of harming Mr. Jackson?

3. Were Doug's threats intentional?

4. Were Doug's actions the proximate cause of Mr. Jackson's physical injuries?

5. To what extent, if any, would Doug's parents be liable?

DEVELOP YOUR OWN "BASIC PROBLEM"

for

"INJURY AND PROPERTY DAMAGE"

BASIC PROBLEM NUMBER ONE

Facts

Law

Decision

VARIATION ON PROBLEM NUMBER ONE (Your own)

(Identify nature of "variation" in space provided)

Facts

Law

Decision

Student Name

4

MOTOR VEHICLE TORTS

The automobile provides a central focus for many civil actions. This chapter should enable you to:

1. *Explain the standard of conduct required by:*
   a. *The driver of the car.*
   b. *The owner of the car (if different from the driver).*
2. *Explain the liability of the driver of a car to any passenger in case of an accident.*

A motor vehicle as defined by the *Iowa Code, Chapter 321.1,* means every vehicle which is self-propelled but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires, but not operated upon rails. The terms "car," "new car," "used car," or "automobile" shall be synonymous with the term "motor vehicle."

An automobile often becomes a person's most sought after possession once the age of adolescence begins. The privilege of operating or owning a motor vehicle carries with it specific legal and moral responsibilities. People unwilling to accept these legal or moral responsibilities create problems. The modern horseless carriage is surrounded with more legal problems than almost any other single thing in American life. Problems ranging from violations of traffic laws to drunken driving to manslaughter can be found daily in our criminal courts. The civil courts, on the other side, are confronted with countless lawsuits over injury and property damage resulting from car accidents.

To drive a car is to accept and observe certain standards of operation which protect your rights and the rights of others. These standards are, for the most part, contained in the traffic laws of the State of Iowa.

A violation of a traffic law may well result in an introduction to the criminal court system; the violator may be charged and ordered to appear in a traffic court. **(NOTE: A person who violates a traffic law is not a "criminal" in the normal usage of the term, but is called an "offender.")** The violation of traffic laws could result in an accident and the violator might end up as a defendant in a civil lawsuit. This section deals only with some of these potential lawsuits which may result from our failure to observe the standards for driving a car.

BASIC PROBLEM NUMBER ONE

FACTS

Denny and Cindy had a date that night. Unfortunately, Denny's parents and Cindy's parents had planned to use their cars. Denny had solved the transportation problem, however, by borrowing his friend Steve's car for the night. The car wasn't really Steve's, but his mother's, who was not aware that Steve was lending the car to Denny. Denny's problems started after he failed to see the stop sign at the intersection only two blocks from Cindy's house. As he passed through the intersection, he was hit by a car coming from the direction where there was no stop sign. Denny, Cindy, and the driver of the other car were hurt and both cars sustained considerable damage. The driver of the other car has sued Denny for damages.

LAW

1. *Iowa Code, Section 321.256 (1975):* Obedience to Official Traffic Control Devices. **"No driver of a vehicle or motorman of a streetcar shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a police officer."**

2. Where a **statute** or **municipal ordinance** imposes upon any person a specific duty for the protection or benefit of others, if he neglects to perform that duty, he is liable to those for whose protection or benefit it was imposed for any injuries of the character which the statute or ordinance was designed to prevent.

3. Concept of Negligence (See page I-25).

DECISION

How would you prepare the case for the plaintiff (the driver of the other car)?

VARIATIONS ON PROBLEM NUMBER ONE

1. Variation with Element of Speeding

Facts:

Assume all the facts in the original problem. In addition, the driver of the other car was speeding (40 mph in a 25 mph zone) when they collided.

Law:

Concept of Contributory Negligence. (See page I-25).

Decision:

What effect would the fact of speeding have on the case you prepared for the driver of the other car.

2. Variation with Element of Ownership

Facts:

Assume the same facts as in Basic Problem with the exception that the driver of the other car sues Steve and his parents for damages, claiming that, as the owners of the car, they were liable for any damages, regardless of who was driving.

Law:

a. **Liability of Owner.** *Iowa Code, Section 321.493 (1975).* Liability for Damages. "In all cases where damage is done by any motor vehicle by reason of negligence of the driver, and driven with the consent of the owner, the owner of the motor vehicle shall be liable for such damage."

b. **Unauthorized Purpose.** The Iowa Supreme Court had held that the owner is not liable where his automobile is used for a different and unauthorized purpose. Heavilin vs. Wendell, 214 Iowa 844, 241 N.W. 654 (1932).

c. **Knowledge of Unauthorized Purpose.** If Steve had any knowledge or reason to believe that Denny would use the car for any illegal, negligent, or reckless purpose, or if he knew that Denny was unable, unfit, or incapable of driving the automobile, he might then be held liable for injuries or damages resulting from Denny's use of the car.

Decision:

Prepare a legal argument for the defendants. (Steve and his parents).

BASIC PROBLEM NUMBER TWO

FACTS

Denny and Cindy went to a drive-in theater. Cindy took a small bottle of whiskey out of her purse and proceeded to add a little flavor to their beverages. During the course of the evening, the entire bottle was consumed. On the way home, Denny, in an intoxicated condition, had the accident as described in Basic Problem Number One. Cindy sued Denny for damages.

LAW

1. **Concept of Negligence.** Any person under legal age who violates the provisions of Chapter 123, *Iowa Code*, shall upon conviction be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days.

Chapter 123 of the *Iowa Code (1975)* gives 18 as the legal age for possessing alcoholic beverages and states that no persons under the legal age shall have alcoholic liquor or beer in their possession except for certain reasons stated in that chapter.

2. **Guest Statute.** *Iowa Code, Section 321.494 (1975).* "The owner or operator of a motor vehicle shall not be liable for any damages to any passenger or person riding in said motor vehicle as a guest or by invitation and not for hire unless damage is caused as a result of the driver of said motor vehicle being under the influence of an alcoholic beverage, a narcotic, hypnotic or other drug, or any combination of such substances, or because of the reckless operation by him of such motor vehicle."

3. **Assumption of Risk.** If a passenger assumes a risk knowingly or after it became known to him, and acquiesces, and then fails to take such steps for his own safety as would have been taken by a reasonably prudent person under the like circumstances he cannot recover damages against the driver of the automobile. Agans vs. General Mills, 242 Iowa 978, 48 N.W. 2d 242 (1951).

DECISION

Reach a decision by examining the following questions:

1. Was Denny negligent? By what reason?

2. Does the Iowa Code "guest statute" apply?

3. Does the concept of "assumption of risk" apply?

4. Could Denny be liable for Cindy's injuries?

BASIC PROBLEM NUMBER THREE

FACTS

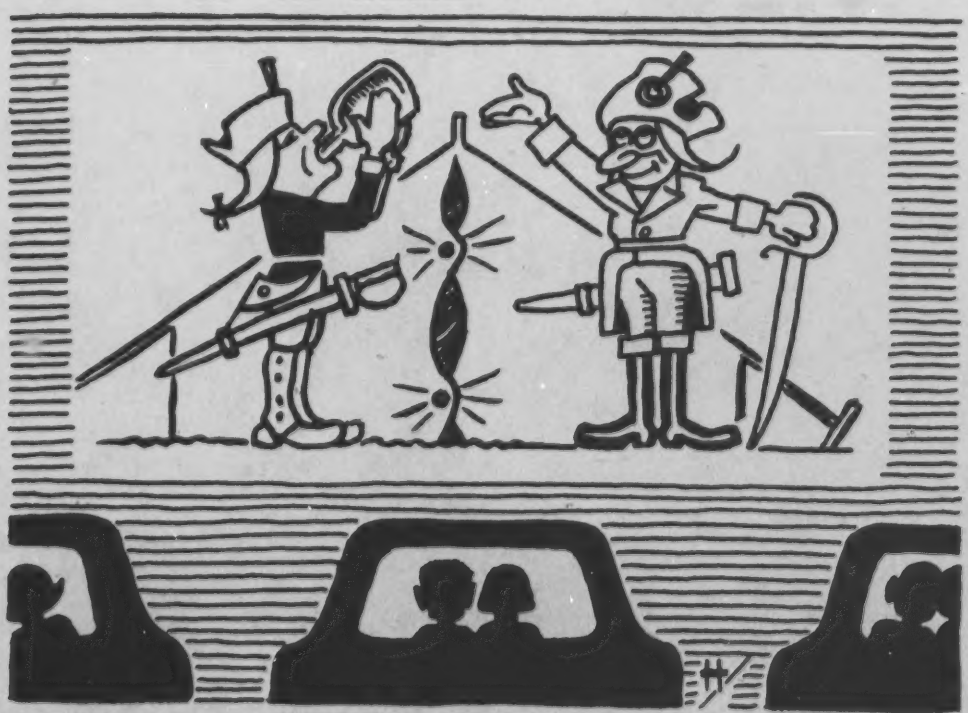
At the drive-in, Denny put vodka into his own pop, offered none to Cindy and concealed it from her. On the way home, the accident happens. Cindy and her parents sued for damages.

LAW

As explained in previous problems.

DECISION

How might you plead Cindy's case?



QUESTIONS FOR DISCUSSION

1. Why should a driver's liability to a passenger be different from the driver's liability to someone who is not a passenger?

2. How would drunkeness affect the elements required for a negligence suit?

DEVELOP YOUR OWN "BASIC PROBLEM"

for

"MOTOR VEHICLE TORTS"

BASIC PROBLEM NUMBER ONE

Facts

Law

Decision

VARIATION ON PROBLEM NUMBER ONE (Your own)

(Identify nature of "variation" in space provided)

Facts

Law

Decision

Student Name

5

WORLD OF WORK

Work is a common human experience, but also an experience that has been the object of many laws. Through an examination of this chapter you should be able to:

1. *Explain the following legal rights:*
   a. *Right of a minor to work.*
   b. *Right to be free from discrimination in hiring.*
   c. *Right to join or refuse to join a union.*
2. *Explain an employer's responsibility to employees who are injured on the job.*
3. *Evaluate jobs in your community in terms of the qualifications for each job.*

The history of work in the United States is riddled with problems and tragedies. Slave labor and indentured servants contributed a great deal to the growth of the United States. Some of the bloodiest riots in our history centered around the rights of the working person. Children were known to work fourteen to sixteen hours per day, often with resulting permanent physical and psychological damage. To eliminate problems like these and others, both the federal government and the state governments have passed numerous rules for the world of work. These **laws regulate almost all aspects of work, including who may be hired or fired, how it may be done, how much pay is to be expected, and so on.**

FEDERAL vs. STATE LAWS

The *Constitution of the United States* gives the federal government the power to regulate interstate (between states) commerce or business while it leaves to the states the regulation of intrastate (within a state) commerce. So many federal laws about work apply only to those companies or businesses engaged in interstate commerce. Companies whose only business is within the state of Iowa, for example, are bound by the laws of Iowa related to work, but do not have to follow all federal laws. However, in most cases, the state of Iowa and other states have passed laws which are similar to those of the federal government.

BASIC PROBLEM NUMBER ONE*
YOUTH AND WORK

Questions:

1. How old must you be before you can legally work?
2. If you are a minor, can your parent(s) or legal guardian(s) demand part of the money which you may earn?

*The format of this chapter changes slightly; each problem begins with questions instead of factual situations.

LAW

1. *Iowa Code, 92.2-7 (1975)* provides, among other things, that:
   a. **No person under the age of ten shall be employed unless a juvenile court judge orders the issuance of a work permit.**
   b. **Persons under the age of fourteen are limited to street trade occupations** (e.g. selling or delivering newspapers or shining shoes) **and migratory labor occupations.**

c. **Persons who are fourteen or fifteen years of age are permitted to work in certain occupations and prohibited from working in others.** Some of the permitted occupations are working in a gas station, restaurant, or retail store. Mining and manufacturing are two of the prohibited occupations.

d. **A person under sixteen years of age is not permitted to work during school hours unless that person is legally out of school or the work is part of a school-work program.**

2. A child has a right to be provided with the necessities of life, including food, clothing, shelter, medical care, and education. **A failure on the part of parents to provide these necessities is a criminal act (called wanton neglect).** *Iowa Code, 731A (1975).*

Parents also have the right to control over minors living at home. This control extends even to the money which a minor may earn at a job.

If a parent has allowed a minor to move away from home and live on his or her own, then the court may find an exception to the control of the parent over that minor–particularly in the case of earned money necessary for support.

Another exception to the general rule of parental control is in the area of gifts and personal property. **Minors who receive gifts of money or property are the legal owners of such, and a parent may not take these away.** In some cases a parent would have to go to court for permission to use a gift to a child to provide necessities for that child.

BASIC PROBLEM NUMBER TWO
DISCRIMINATION IN HIRING

Questions:

1. Can an employer refuse to hire you because of your age, sex, ethnic or national group identification, or religion?

2. Can an employer refuse to hire you because of a physical handicap?

LAW

1. *Civil Rights Act of 1964, 42 U.S.C., Section 200e-2.*

   a. It shall be an **unlawful employment practice** for an employer:

      (1) to fail or refuse to hire or to discharge any individual, or otherwise to **discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin . . .**

   . . .

   e. Not withstanding any other provision of this title:

      (1) it shall not be an unlawful employment practice for an employer to hire and employ employees . . . on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bonafide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. *Iowa Code, 601A.6 (1975):*

   a. It shall be an **unfair or discriminatory practice** for any:

      (1) person to **refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, national origin, religion, or disability of such applicant or employee, unless based on the nature of the occupation.**

      (2) employer, employment agency, labor organization, or the employees, agents or members thereof to directly or

indirectly advertise or any other manner indicate or publicize that individuals of any particular age, race, creed, color, sex, national origin, religion, or disability are unwelcome, objectionable, not acceptable, or not solicited for employment or membership unless based on the nature of the occupation.

DECISION:

1. Which of the following actions would appear to be prohibited by the federal and Iowa laws? In considering how you might decide, list additional facts which you would need to know in each instance. Then explain how these additional facts may affect your decision.

   a. *An advertisement for a job as a bartender which contained the clause, "Men Only Need Apply!"*

   b. *Refusal to hire a woman as a police officer because a woman would be incapable of handling "rough characters."*

   c. *Refusal to hire a person for a job as a truck driver because he or she did not speak English very well and his or her native language would not be understood by the company's customers.*

   d. *Firing of an employee whose severe speech impediment made fellow employees nervous.*

   e. *Refusal to hire a person who is Catholic to teach in a Lutheran elementary school.*

2. The *Federal Equal Employment Act, 42 U.S.C., Section 200e-2,* was designed to eliminate discrimination in employment by requiring job qualifications to be appropriate and necessary for the job and prohibiting those which are not necessary for efficient performance. **An employer must hire employees on the basis of bonafide occupational qualifications "reasonably necessary to the normal operation of that particular business or enterprise."** For example, a bonafide occupational qualification for the job of computer operator would be an ability to work with computers. In the context of the concept of a bonafide occupational qualification analyze potential legal problems of an employer who refuses to hire a person for the reasons listed below. Would the nature of the job make a difference? How?

   a. Long hair

   b. Extreme obesity

   c. Visual impairment

   d. Physical impairment

   e. A typical pattern of dress

BASIC PROBLEM NUMBER THREE
UNIONS

Question:

1. Do you have to join a union to work in certain areas, such as construction or factories?

2. Can an employer refuse to recognize a union?

LAW:

1. **Unions.** Federal Law. The *National Labor Relations Act, 28, U.S.C., Section 7.* "Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities of their own choosing for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities . . . *Section 8:* It shall be an unfair labor practice for an employer . . . to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in *Section 7.*"

2. **Unions in Iowa.** *Iowa Code, Section 736A (1975)* states: Right to join union. "It is declared to be the policy of the state of Iowa that no person within its boundaries shall be deprived of the right to work at his own chosen occupation for any employer because of membership in, affiliation with, withdrawal or expulsion from, or refusal to join, any labor union, organization, or association, and any contract which contravenes this policy is illegal and void."

3. Refusal to Employ Union Members. *Iowa Code, Section 737A.2 (1975)* states: **"It shall be unlawful for any person, firm, association or corporation to refuse or deny employment to any person because of membership in, or affiliation with, or resignation or withdrawal from, a labor union, organization or association, or because of refusal to join or affiliate with a labor union, organization or association."**

DECISION:

How would you decide in the following cases?

1. *Sam was fired from his job with Ace Bicycle Company for attempting to organize a union among his fellow workers. How might you advise Sam as to his rights?*

2. *Vera is hired as a machinist by the Ace Trucking Company. At the time she was hired, she was informed that she had to join the union within thirty days. Vera refused to join the union and the company fired her. How would you advise Vera?*

BASIC PROBLEM NUMBER FOUR
INJURIES AT WORK

Question:

If you are injured while at work, does your employer have any responsibility to help you pay medical expenses?

LAW:

1. **Acceptance Presumed–Notice to Nonresident Employers.** *Iowa Code, Section 85.3 (1975).* "Every employer, not specifically excepted by the provisions of this chapter, shall provide secure, and pay compensation according to the provisions of this chapter for any and all personal injuries sustained by an employee arising out of and in the course of the employment."

2. **Willful Injury–Intoxication.** *Iowa Code, Section 85.16 (1975).* "No compensation under this chapter shall be allowed for an injury caused:

   a. by the employee's willful intent to injure himself or to willfully injure another.

   b. when intoxication of the employee was the proximate cause of the injury.

   c. by the willful act of a third party directed against the employee for reasons personal to such employee."

3. *Iowa Code, Section 85.27* (As amended by 66th General Assembly, 1976). **"The employer . . . shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatrial, physical rehabilitation, nursing, ambulance and hospital services and supplies therefor and shall allow reasonably necessary transportation expenses incurred for such services."**

4. **Death Cases–Dependents.** *Iowa Code, Section 85.31 (1975).* "When death results from the injury, the employer shall pay the dependents who were wholly dependent on the earnings of the employee for support at the time of his injury, during their lifetime, compensation upon the basis of eighty percent per week of the employee's average weekly earnings, commencing from the date of his death. . . "

5. **Insurance of Liability Required.** *Iowa Code, Chapter 87, 1975.* "Every employer subject to the provisions of this and *Chapters 85* and *86* unless relieved therefrom, as hereinafter provided, shall insure his liability thereunder in some corporation, association, or organization approved by the commissioner of insurance . . ."

DECISION:

How might these laws affect the responsibility of an employer in the following situations:

1. *Personal injury which resulted from an employee who slipped inside the warehouse and fell into the path of company's forklift.*

2. *Personal injury which resulted from a fight between two employees who should have been working.*

3. *Personal injury which occurred when an intoxicated employee stuck a hand into a band saw.*

BASIC PROBLEM NUMBER FIVE
EQUAL PAY FOR EQUAL WORK

Question:

Can an employer pay a person of one sex more than a person of the opposite sex for performing substantially the same job?

LAW:

Federal Equal Pay Act of 1963, 29, U.S.C., Section 206: "No employer having employees subject to any provisions of this section shall discriminate . . . between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex. . . for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (1) a seniority system; (2) a merit system; (3) a system which measures earnings by quantity or quality of production, (4) or a differential based on any other factor than sex. . . "

DECISION:

Discuss how this law applies to the following situations:

1. *A school system employs both men and women as school bus drivers. However, the men are regularly paid more than the women.*

2. *A man and woman are doing the same work in an office. The woman is paid more because she is a widow with three children while the man is single.*

3. *A woman and a man are hired by a store as stock clerks. The man is paid more because his job involves arranging inventory while the woman's job involves counting inventory items.*

4. *A man and a woman are hired to operate the same machine in a factory. The man is paid more because he works the night shift.*

5. *A department store paid saleswomen less to sell women's clothing than it paid salesmen to sell men's clothing on the basis that it required more skill to sell men's clothing.*

6. *A woman, employed in a large laboratory, was re-assigned to a lower level job because she developed problems with her eyesight--problems which prevented her from performing efficiently. At her new, lower-level job she was paid the same salary as at the previous job even though that salary was much higher than the salary paid to others in this job level.*

QUESTIONS FOR DISCUSSION

1. Why should there be restrictions on the work of minors?

2. What function does the sex of a person play in actual job performance? Answer this question in respect to ten jobs which are found in your community.

Notes:

DEVELOP YOUR OWN "BASIC PROBLEM"

for

"WORLD OF WORK"

BASIC PROBLEM NUMBER ONE

Facts

Law

Decision

VARIATION ON PROBLEM NUMBER ONE (Your own)

(Identify nature of "variation" in space provided)

Facts

Law

Decision

Student Name

6
PERSONAL FINANCE

In this chapter you will examine some common financial contracts. This study should enable you to:

1. *Explain the basic responsibility of parents for financial contracts of their children.*
2. *Explain the nature of an express warranty.*
3. *Examine newspaper or television advertisements and distinguish in them between express warranties and puffing.*
4. *Explain how a lease for an apartment fulfills the requirements of a contract.*

When was the last time you borrowed one hundred thousand dollars from a bank to expand your factory? Or signed a sixty thousand dollar mortgage for a new home? Well, so maybe you're not a "wheeler-dealer" in the world of high finance. Maybe some day! In the meantime, you undoubtedly will make many other kinds of financial arrangements–borrow money for college, open a checking account, buy a car. In these and numerous other financial transactions, you will be entering into contracts as important and as binding as those made in the world of high finance.

As you may recall from Chapter One, a **contract is a legal agreement which all involved parties are obligated to respect and honor.** It is when someone apparently fails to honor a contract that a court of law will come into the picture. The court will first have to determine what the nature of the agreement was and then whether the defendant (the one accused of breaking the contract) actually violated any part of the agreement.

BASIC PROBLEM NUMBER ONE
MINORS AND CONTRACTS

FACTS:

Ben, a 16-year-old, was accustomed to buying all the clothes he wanted. But, because of family financial problems, the flow of money to his wardrobe fund had dwindled. Since Ben was accustomed to buying whatever he wanted, he went to the clothing store, picked out some new clothes and charged it by signing his father's name. His parents subsequently refused to pay the bill and the owner of the store sued Ben's parents to collect the money. Assume that you are the judge. Read the law and render your decision.

LAW:

1. FAMILY EXPENSES. *Iowa Code, Section 597.14 (1975)* states: "The reasonable and necessary expenses of the family and the education of the children are chargeable upon the property of both husband and wife. . . The interpretation of this law is that the **parents are responsible to provide their children with the necessities of life, including food, clothing, shelter, medical care, and education."**

2. MINOR'S CONTRACTS: In Iowa a minor is limited in his or her ability to make contracts. Specifically, **a minor can make contracts only for the purchase of necessities. If a minor does make a contract for something other than necessities, then the minor can refuse to perform; that is, the minor can refuse to pay.** Since the parents cannot be held liable for goods and services which are not necessities, a merchant who extends credit to a minor does so at his/her own risk. The merchant must determine whether or not the goods are necessities.

A complicating factor in such cases centers on a definition of what is necessary. Assuming that shoes are considered necessary, would this apply only to a relatively inexpensive pair? Or could an expensive pair of shoes be considered necessary? The key element in such a question would be the parent's ability to pay. If a minor's parents could easily afford expensive clothing, then the court might consider an expensive pair of shoes to be "necessary." Of course, if the family were not financially able, then a costly pair of shoes would not be "necessary." A merchant assumes the responsibility of making these decisions.

If minors need shoes, for example, and their parents fail to provide them, then minors have the legal right to charge them (assuming they can). However, if the parents have already provided the shoes, then minors cannot legally charge for them in their parent's name.

If a minor is married, he or she would not be considered a minor for the purposes of a contract. They would be responsible for any contracts they made. Their parents would not be responsible for their contracts, even for necessities.

DECISION:

If you were the judge, what other facts would you want to know about Ben's case? Explain how these additional facts might affect your decision.

BASIC PROBLEM NUMBER TWO

FACTS:

Nineteen-year-old Karen had recently purchased a new coat which, the salesclerk had assured her, was real leather. On returning home with the coat she had found a label which read, "Simulated Leather." She felt she had been cheated. Would she have any legal remedy available?

LAW:

1. EXPRESS WARRANTY. When you purchase something, you enter into a contract. The two parties to the contract, the buyer and the seller, are agreeing to perform in a certain way. You agree to pay a certain amount of money; the seller agrees to hand over to your ownership the desired product. There is another element to a purchase agreement, the element of express warranty.

   A warranty is a guarantee that something is true. When you pay for something in cash you make a warranty that the money is real, not counterfeit. Merchants engaged in selling goods and services to the public are subject to the law of express warranty. **An express warranty is a statement about the nature and quality of something which is offered for sale.** The word "express" means that the warranty is made orally to the buyer or in print as in an advertisement. When a merchant makes an express warranty about a product, the law requires that merchant to live up to the terms of that warranty. If you buy a product that is labeled toothpaste, the seller is making an express warranty that the package contains just that; if you opened the package and found shaving cream, you would have an obvious right to require the merchant either to provide you with toothpaste or to return your money. *(See Iowa Code, Section 554.2313 (1975))*

   The complicating problems relative to express warranties center around two questions:

   a. Was a merchant actually making an express warranty or was the statement about the product merely "puffing" or exaggerated praise? The law recognizes as common knowledge the tendency of salespersons to be optimistic about their products. This distinction between express warranties and "puffing" can be seen in the following two statements:

      "Corn-Oats is the tastiest cereal on your grocer's shelves."
      "Corn-Oats is made from purely natural ingredients, with no preservatives added."

      Which of these statements would probably be an express warranty?

   b. Was the purchaser capable of understanding the meaning of the express warranty which was made?

      Suppose that an 11-year-old boy goes to a shoe store with instructions from his parents to buy a new pair of leather shoes and having related his needs to the salesperson, is sold a pair of "simulated leather" shoes from the store. Most probably, this young man did not comprehend the fact that "simulated" was another way of saying imitation. A court of law would probably say that because this boy could not understand the meaning of the merchant's express warranty, the merchant would be obligated to return the boy's money and take back the shoes.

DECISION:

Use the concept of express warranty to make a judicial decision in Karen's lawsuit against the salesperson who sold her the coat.

VARIATIONS ON PROBLEM NUMBER TWO

Variation Number One

Facts:

Assume that Karen was older and, because she had purchased many coats in her lifetime, knew the difference between a leather and simulated leather. What would be your decision with this new fact?

Law:

Express Warranty (as previously explained)

Decision:

Would your original decision change?

Variation Number Two

Facts:

Assume that the salesperson had made this statement: "This is made of a high quality leather-like material."

Law:

Express Warranty (as previously explained)

Decision:

How would you decide? Why?

Variation Number Three

Facts:

A prominent tag was attached to the coat stating that it was made of simulated leather.

Law:

Express Warranty (as previously explained)

Decision:

Would this new fact make a difference in your decision?

BASIC PROBLEM NUMBER THREE

FACTS:

Priscilla was ecstatic when she read the advertisement in the paper for a tennis racket at the local athletic store for half price. She was disappointed when she arrived at the store and was told by the merchant that the tennis racket was no longer available. The

merchant did, however, have some other tennis rackets which were more expensive than what Priscilla could afford. Priscilla walked out without buying anything but she was convinced that the merchant was guilty of some violation of the law.

LAW:

As you will recall, a contract is an agreement in which each party promises to perform in a certain way. If one party fails to perform in the appropriate manner, then the other party to the contract can seek a legal remedy for this violation.

Contract law provides that advertisements, circulars, and catalogs are not legal offers to the public. Since these publications and materials are intended primarily for publicity, they are not considered part of a legal contract.

DECISION:

Had the merchant violated a contract with Priscilla to sell her a certain tennis racket at a certain price?

VARIATION ON PROBLEM NUMBER THREE

Facts:

Even though Priscilla was not able to buy the new tennis racket, she still played tennis with friends that day. She learned that her friends had the same experience at the athletic shop. All had attempted to take advantage of the sale on tennis rackets early in the day only to find that they were "sold-out." The merchant, however, had been more than willing to sell them a higher priced tennis racket.

Law:

Tort of Misrepresentation. The law does not allow a person to purposely trick or deceive another. **Merchants who purposely advertise a sale to bring people into their stores but never actually intend to offer the advertised item at the advertised price may be liable for the tort of misrepresentation.** A suit, undertaken by the state or an individual, could result in an injunction against the practice and an order to return any money which was obtained by the unlawful practice.

Decision:

What additional facts would you need to determine whether the merchant might be liable for the tort of misrepresentation?

BASIC PROBLEM NUMBER FOUR

FACTS:

Dave was certain that he had accomplished a slick deal by trading off his five-year-old, low mileage car for a new one. He was so sure because only he knew that he had turned back the odometer after someone told him that a lower mileage car would have a higher trade-in value.

LAW:

EXPRESS WARRANTY (as previously explained) (See page I-48).

DECISION:

1. Did Dave violate any contract with the car dealer? If so, on what legal grounds could the car dealer sue Dave?

2. If the car dealer took Dave to court, what would be the primary problem of proof? What evidence might the car dealer offer or attempt to develop to solve this problem of proof?

BASIC PROBLEM NUMBER FIVE

FACTS:

It had taken Carlton three months to land a job after he graduated from high school, but now he was working and he was ready to "live." His first step was to find an apartment. Mrs. Johnson was a bit reluctant to rent an apartment to someone as young as Carlton. However, Carlton convinced her of his maturity, signed a lease on the apartment for a year and moved in. Two months later, Carlton held a party for his former high school classmates. Carlton and his friends had a lot of fun at the party, even though Mrs. Johnson called twice to complain about the noise. Carlton dismissed her complaints as those of an "old crank." The next morning, however, Mrs. Johnson asked Carlton to move out of his apartment. She explained that Carlton had violated the provision of the lease which prohibited "loud and boisterous conduct." She further explained that Carlton according to the terms of the lease would have to pay the rent on the apartment until she could find another tenant.

LAW:

A lease is a contract. Each party agrees to perform in a certain manner. As in a contract, **a lease is binding. Failure to live up to the conditions of the lease may result in eviction from the property and the payment of damages. The conditions of the lease must be reasonable, however, for a court to enforce them.** For example, a provision in a lease which required the lessee (or tenant) to limit the number of guests in an apartment to one at a time might well be considered unreasonable, and therefore, not enforceable.

DECISION:

Could Mrs. Johnson force Carlton to leave the apartment? Could Mrs. Johnson force Carlton to pay the rent for the two months that the apartment was vacant? What additional facts might you need to make a decision?

QUESTIONS FOR DISCUSSION

1. Why is there a legal distinction between an express warranty and "puffing?"

2. Obtain a copy of a lease for an apartment. (Try a local real estate agent). Discuss the responsibilities of the landlord and the renter.

Notes:

DEVELOP YOUR OWN "BASIC PROBLEM"

for

"PERSONAL FINANCE"

BASIC PROBLEM NUMBER ONE

Facts

Law

Decision

VARIATION ON PROBLEM NUMBER ONE (Your own)

_____

(Identify nature of "variation" in space provided)

Facts

Law

Decision

_____

Student Name

7
LOVE AND MARRIAGE

Marriage is a civil contract between a man and a woman. Through your study of the contract in this chapter you should be able to:

1. *Explain the requirements for entering into the marriage contract.*
2. *Explain the requirements for dissolving the marriage contract.*

LAW:

Marriage is still one of the most popular contractual arrangements between men and women in the United States. In spite of the growing number of divorces and the loud proclamations of some that marriage is a dead institution, men and women continue to unite themselves as husband and wife. In addition to its strong moral and religious meanings, marriage has an important legal meaning. The legal implications of this union between men and women are based on the fact that marriage is a contract. As a contract, marriage is governed by those concepts of contract law (as outlined in the first chapter) and the specific laws of each state.

Marriage is a legal agreement, entered into by competent parties with mutual consent and obligation. To understand how the law regulates this agreement between two people, let's examine some possible outcomes of the following situation.

BASIC PROBLEM NUMBER ONE

FACTS:

Jim is eighteen and Jackie is sixteen. Faced with the fact of pregnancy, they decide to get married. Can they legally do so?

Restrictions on Age. *Iowa Code, Section 595.2 (1975).* **"A marriage between a male and a female each eighteen years of age or older is valid.** A marriage between a male and a female either or both of whom have not attained that age may be valid under the circumstances prescribed in this section.

1. If either party to a marriage falsely represents himself or herself to be eighteen years of age or older at or before the time the marriage is solemnized, the marriage is valid unless the person who falsely represented his or her age chooses to void the marriage by making his or her true age known and verified by a birth certificate or other legal evidence of age in an annulment proceeding initiated at any time before he or she reaches his or her eighteenth birthday. A child born of a marriage voided under this subsection is legitimate.

2. A marriage license may be issued to a male and a female either or both of whom are sixteen or seventeen years of age if:

   a. The parents of the underaged party or parties certify in writing that they consent to the marriage. If one of the parents of any underaged party to a proposed marriage

is dead or incompetent the certificate may be executed by the other parent, if both parents are dead or incompetent, the guardian of the underaged party may execute the certificate, and if the parents are divorced the parent having legal custody may execute the certificate and

b. The certificate of consent of the parents, parent or guardian is approved by a judge of the district court, or, if both parents of any underaged party to a proposed marriage are dead, incompetent or cannot be located and the party has no guardian, the proposed marriage is approved by a judge of the district court. A judge shall grant approval under this subsection only if he finds the underaged party or parties capable of assuming the responsibilities of marriage and that the marriage will serve the best interest of the underaged party or parties. Pregnancy alone does not establish that the proposed marriage is in the best interest of the underaged party or parties, however if pregnancy is involved the court records which pertain to the fact that the female is pregnant shall be sealed and available only to the parties to the marriage or proposed marriage or to any interested party securing an order of the court.

c. If a parent or guardian withholds consent, the judge upon application of a party to a proposed marriage shall determine if the consent has been unreasonably withheld. If the judge so finds, the judge shall proceed to review the application under subsection "b" of this section."

DECISION:

1. Could Jim and Jackie get married **without** their parent's consent?

2. Could they get married **with** their parent's consent?

3. If Jackie's parents refused to consent to the marriage, would it be possible for them to get married?

4. If Jackie wasn't pregnant, would it be easy for them to get married by lying about their ages, stating that they both were eighteen?

BASIC PROBLEM NUMBER TWO

FACTS:

Jim refuses to marry Jackie. What can Jackie do?

LAW:

1. **Mutuality of Agreement:** "Since marriage is a contract, both parties must agree in their own rights to the marriage, and cannot be forced to marry against their wills."

2. **Statutory Rape.** *Iowa Code, Section 698.1:* "If any person ravish and carnally know any female by force or against her will, or if any person carnally know and abuse any female child under the age of sixteen years, or if any person over the age of twenty-five years carnally know and abuse any female under the age of seventeen years, he shall be imprisoned in the penitentiary for life, or any term of years, not less than five, and the court may pronounce sentence for a lesser period than the maximum, the provisions of the indeterminate sentence law to the contrary notwithstanding." (NOTE: This section has been repealed, effective January 1, 1978, and will be replaced by *Section 908 of Chapter One* of the new *Iowa Criminal Code).*

3. **Seduction.** *Iowa Code, Section 703.1 (1975)* "If any person seduce and debauch any unmarried woman of previously chaste character, he shall be punished by imprisonment in the penitentiary not more than five years, or by fine not exceeding one thousand dollars and imprisonment in the county jail not exceeding one year."

4. *Iowa Code, Section 675.1 (1975).* **"The parents of a child born out of wedlock and not legitimized owe the child necessary maintenance, education, and support.** They are also liable for the child's funeral expenses. The father is also liable to pay the expense of the mother's pregnancy and

confinement. The obligation of the parent to support the child under the laws for the support of poor relatives applies to children born out of wedlock."

DECISION:

1. Could Jackie force Jim to marry her?

2. Could Jackie threaten Jim with any criminal charges? What?

3. Could Jackie force Jim to pay for the support of the child?

BASIC PROBLEM NUMBER THREE

FACTS:

Suppose that Jackie and Jim, failing to get the consent of their parents, simply move to Des Moines where Jim gets a job and they begin living together. Are they legally married?

LAW:

Common law marriage. Iowa also recognizes what is known as common law marriage. Such a marriage may be proved by circumstantial evidence. Mere proof of cohabitation is not sufficient.

The elements necessary to establish a common law marriage are well established as follows:

1. **Intent and present agreement to be married, on the part of both parties.**

2. **Continuous cohabitation and public declaration that they are husband and wife.**

3. **Capacity of parties to make such a contract.**

The burden of proof is on the one asserting the claims. All elements of relationship as to marriage must be shown to exist. A claim of such marriage is regarded with suspicion and will be closely scrutinized.

DECISION:

Suppose that after a year of living together, Jim and Jackie need to prove that they have a common law marriage. What evidence might you require to satisfy the three elements of a common law marriage?

BASIC PROBLEM NUMBER FOUR

FACTS:

Suppose that Jackie and Jim get married with their parents' consent. After living with Jackie and (eventually) a squalling baby, Jim reaches the end of his rope and decides it is time to get out. How can Jim legally get out of this marriage contract?

LAW:

Dissolution. *Iowa Code* (As amended by 66th General Assembly, 1976).

1. **Content of Petition for Dissolution.** *Section 598.5.*

   1. "Name and address of the petitioner and his attorney.

   2. Place and date of marriage of the parties.

   3. Name and address of the respondent.

   4. Name and age of each minor child. . . whose welfare may be affected by the controversy.

   . . .

   7. Allegation that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be reserved."

2. **Conciliation.** *Section 598.16.*

"Upon the application. . .the court shall require the parties to participate in conciliation efforts for a period of sixty days from the issuance of an order setting forth the conciliation procedure and the conciliator.

At any time upon its own motion or upon the application of a party the court may require the parties to participate in conciliation efforts for sixty days or less following the issuance of such an order.

Every order for conciliation shall require the conciliator to file a written report by a date certain which shall state the conciliation procedures undertaken and such other matters as may have been required by the court. . . Such conciliation procedure may include, but is not limited to, referrals to the domestic relations division of the court, if established, public or private marriage counselors, family service agencies, community health centers, physicians and clergymen."

3. **Dissolution of Marriage–Evidence.** *Section 598.17.*

"A decree dissolving the marriage may be entered when the Court is satisfied from the evidence presented that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved. . .

The Court shall, based upon competent and relevant evidence, in such decree provide for the division of assets of the parties and reasonable support or maintenance of any dependent children or either spouse."

4. **Annulment.** *Section 598.29.*

"Marriage may be annuled for the following causes:

1. Where the marriage between the parties is prohibited by law.
2. Where either party was impotent at the time of marriage.
3. Where either party had a husband or wife living at the time of the marriage. . .
4. Where either party was mentally ill or a mental retardate at the time of the marriage."

DECISION:

1. Could Jim obtain a dissolution of this marriage on the same day that he decides to get out?
2. In the case of Jackie and Jim, what possible grounds for annulment might exist?
3. If you were the judge, what evidence of a breakdown of the marriage would you accept?

LOVE AND MARRIAGE

QUESTIONS FOR DISCUSSION

1. Why should the law place age requirements on the ability to enter into a marriage contract?
2. Why should a society place any restrictions on a person's ability to marry?
3. Should the dissolution of marriage be easy or difficult?

Notes:

DEVELOP YOUR OWN "BASIC PROBLEM"

for

"LOVE AND MARRIAGE"

BASIC PROBLEM NUMBER ONE

Facts

Law

Decision

VARIATION ON PROBLEM NUMBER ONE (Your own)

(Identify nature of "variation" in space provided)

Facts

Law

Decision

Student Name

8
STUDENTS AND SCHOOL

As a student you have been required to follow the authority of your teachers and your principal. At the end of this chapter you should be able to:

1. *State in general terms your responsibility as a student.*
2. *Explain the limits of the authority of your teachers and principal.*

Schools, like other institutions in our society, have problems. Perhaps the most perplexing problem for schools, both yesterday and today, is the problem of authority. Not who has the authority in school: we all know that teachers, principals, and other school officials have the authority. The question is: How much authority do they have? It may seem from our experience that the amount of authority is measured by such things as physical size, power of the voice, or the power to give grades. But the question of authority is more complicated and serious than that. This chapter is devoted to some of these complex problems.

BASIC PROBLEM NUMBER ONE

FACTS:

Jan impatiently waited for Mr. Johnson, the principal. She was nervous, but determined not to give an inch. "It isn't fair," she thought. "I am the editor of the paper. I should be able to control what goes into it. Mr. Smith had no right to stop me from printing the editorial on the need for a class in the history of women." Jan's editorial in the school paper was actually quite mild--no threats, no name-calling. Just a straight-forward plea for a course in the history of women. But, as Mr. Johnson pointed out, such an editorial was not within the purpose of the school paper and not even a matter for student discussion.

What would the law say if Jan ended up in court over this matter--an issue of student's rights versus the authority of school officials.

LAW:

1. *Iowa Code, Section 280.3 (1975)* states: **"The board of directors of each public school district and the authorities in charge of each non-public school shall prescribe the minimum educational program for the school under their jurisdictions.** The minimum educational program shall be the curriculum set forth in *Section 257.25*, except as otherwise provided by law. . ."

2. *Iowa Code, Section 257.25-6b, 1975* states: **"In grades nine through twelve. . .All students shall be required to take one unit of American history which shall give attention to the role in history played by all persons, and a positive effort shall be made to reflect the achievements of women, minorities and any others who, in the past, may have been ignored or overlooked by reason of race, sex, religion, physical disability or ethnic background. . ."**

3. *Multicultural, Nonsexist Curriculum Guidelines for Iowa schools*--Iowa Department of Public Instruction states: "It is. . .recommended that secondary schools offer elective courses in women's studies and ethnic studies. . ."

4. Pertinent Amendments to the *U.S. Constitution:*

First Amendment:

> **"Congress shall make no law abridging the freedom of speech, or of the press, or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances."**

Fourteenth Amendment:

> **". . .No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law."**

5. **Student Rights.** The following statements are excerpts from the case of Tinker vs. Des Moines Independent School District, in the majority opinion delivered by Justice Fortas:

a. "In West Virginia State Board of Education vs. Barnette, this Court held that under the *First Amendment,* the student in public school may not be compelled to salute the flag. Speaking through Mr. Justice Jackson, the Court said:

> 'The *Fourteenth Amendment,* as now applied to the States, protects the citizens against the State itself and all of its creatures--Boards of Education not excepted. These have, of course, important, delicate, and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights. That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.' *319 U.S. at 637, 63 S. Ct. at 1185.*

In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in schools as well as out of schools are 'persons' under our *Constitution.* They are possessed of fundamental rights which the State must respect just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views. As Judge Gewin, speaking for the Fifth Circuit said, school officials cannot suppress 'expressions of feelings with which they do not wish to contend.' " Burnside vs. Byars, supra, 363 f. 2nd at 749.

b. "The principle of these cases is not confined to the supervised and ordained discussion which takes place in the classroom. The principle use to which the schools are dedicated is to accommodate students during prescribed hours for the purpose of certain type of activities. Among those activities is personal intercommunication among the students. This is not only an inevitable part of the process of attending school. It is also an important part of the educational process. A student's rights, therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on the campus during authorized hours, he may express his opinions, even on controversial subjects like the conflict of Vietnam, if he does so '(without) materially and substantially interfering with. . .appropriate discipline in the operation of the school' and without colliding with the rights of others. Burnside vs. Byars, supra, 363 F2nd at 749. But conduct of the student, in class or out of it, which for any reason--whether it seems from time, place, or type of behavior--materially disrupts, classwork or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech." Cf. Blackwell vs. Issaquena County Board of Education, 636 F. 2d 749 (C.A. 5th Cir., 1966)

c. "As we have discussed, the record does not demonstrate any facts which might reasonably have led school authorities to forecast substantial disruption of or material interference with school activities, and no disturbances or disorders on the school premises in fact occurred. These petitioners merely went about their ordained rounds in school. Their deviation consisted only in wearing on their sleeve a band of black cloth, not more than two inches wide. They wore it to exhibit their disapproval of the Vietnam hostilities and their advocacy of a truce, to make their views known, and by their example to influence others to adopt them. They neither interrupted school activities nor sought to intrude in the school affairs or the lives of others. They caused discussion outside of the classroom, but no interference with work and no disorder. In the circumstances, our *Constitution* does not permit officials of the State to deny their form of expression."

DECISION:

1. Does Jan, as the editor of the school paper, have complete control over the contents of the paper? If her control is limited, in what way and by whom?

2. Suppose that Jan and her parents filed a complaint in court, seeking an injunction (a court decree which orders a person or persons to do something or to stop doing something) restraining school officials from keeping the editorial out of the paper. How would you decide?

VARIATIONS ON PROBLEM NUMBER ONE

Apply the law to the following changes in fact.

1. Variation Number One

   Facts:

   Suppose that Jan used obscene language in this specific editorial.

   Decision:

   How would the law apply?

2. Variation Number Two

   Facts:

   Suppose that Jan, in this same editorial, claimed that Mr. Johnson, the principal, was a "male chauvinist pig" and was biased in favor of male students in all disciplinary matters.

   Decision:

   How would you decide if this problem came to court?

BASIC PROBLEM NUMBER TWO

FACTS:

John had played basketball at Jackson High for three years and received honorable mention in the all-state player recognition last year. During the summer John and Julie got married with the reluctant consent of their parents. Now the school board has ruled that John can't play basketball as a senior because of a rule restricting married students from participating in extracurricular activities. John decides to go to court to get this rule thrown out.

LAW:

The Iowa Supreme Court held that "the rule of a school board precluding married pupils from participating in extracurricular activities was not violative of public policy, and did not penalize persons because of marriage." The Court stated:

> "The operation of the public schools of this state under and in accord with applicable statutes is clearly vested in the duly elected directors of the various local school boards. . ." Board of Directors, Ind. Sch. Dist., vs. Green, 259 Iowa 1261 (1967)

The board disclosed the policy considerations which prompted adoption of the rule as follows:

1. "Married students assume new and serious responsibilities. Participation in extracurricular activities tends to interfere with discharging these responsibilities.

2. A basic education program is even more essential for married students. Therefore, full attention should be given to the school program in order that such students may achieve success.

3. Teenage marriages are on the increase. Marriage prior to the age set by law should be discouraged. Excluding married students from extracurricular activities may tend to discourage early marriages.

4. Married students need to spend time with their families in order that the marriage will have a better chance of being successful.

5. Married students are more likely to drop out of school. Hence, marriage should be discouraged among teenage students.

6. Married students are more likely to have undesirable influences on other students during the informal extracurricular activities.

7. The personal relationships of married students are different from those of non-married students. Non-married students can be unduly influenced as a result of relationships with married students.

8. Married students may create school moral and disciplinary problems, particularly in the informal extracurricular activities where supervision is more difficult."

In the case of Holt vs. Shelton, 341 F. Supp. 821 (M.D. Tenn. 1972), a federal district court held that such a regulation is unconstitutional.

Almost all federal courts have held that any discrimination based on marital status violates the equal protection clause of the 14th Amendment. (Refer to Rubel vs. Iowa Girls High School Athletic Union).

DECISION:

1. Based on the previous court decisions, how would you rule in John's case?

2. Examine the reasons given by the school board in Ind. Sch. Dist. vs. Green for adopting the restrictive rule. Are these reasons valid today?

VARIATION ON PROBLEM NUMBER TWO

Facts:

Assume that John was restricted from playing basketball because his grades were poor.

Decision:

Could the school board make such a rule under the law?

BASIC PROBLEM NUMBER THREE

FACTS:

Terri has been dismissed from school for three days for smoking cigarettes in the rest room. She couldn't convince the teacher who took her to the principal's office or the principal that she had not been smoking when the teacher walked in. Her friend had just handed her a couple of cigarettes and she was only putting them in her purse when the teacher walked in.

LAW:

Two general questions are presented in this case. The first problem concerns the authority of school officials to prohibit smoking on school grounds. The second problem is the power of school officials to suspend and expel students from school.

1. **Smoking.** In State vs. Green, the court held that the "conduct of pupils which directly relates to and affects the management of the school and its efficiency" may be regulated by school authorities. However, schools have no power to govern individual conduct wholly outside the schoolroom or school grounds. (259 Iowa 1260, 147 N.W. 2d 854 1967)

2. **Use of Tobacco.** *Iowa Code, Section 279.9 (1975)* "Such rules shall prohibit the use of tobacco and the use or possession of alcoholic liquor or beer or any controlled substance as defined in *Section 204.101, subsection 6*, by any student of such schools and the board may suspend or expel any student for any violation of such rule."

3. **Majority Vote–Suspension.** *Iowa Code, Section 282.4 (1975).* "The board may, by a majority vote, expel any scholar from school for immorality, or for a violation of the regulations or rules established by the board, or when the presence of the scholar is detrimental to the best interests of the school; and it may confer upon any teacher, principal, or superintendent the power temporarily to dismiss a scholar, notice of such dismissal being at once given in writing to the president of the board."

4. **Re-admission of Pupil.** *Iowa Code, Section 282.25 (1975).* "When a scholar is dismissed by the teacher, principal, or superintendent, as above provided, he may be re-admitted by such teacher, principal, or superintendent, but when expelled by the board he may be re-admitted only by the board or in the manner prescribed by it."

5. **Due Process.** The Supreme Court ruled in 1975, that students have the same protections of personal rights as adults, particularly those rights to "due process." Specifically, this decision

provided that students who face a suspension of up to ten days are entitled to an "oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his version." (Goss vs. Lopez, *419 U.S. 565 (1975).*

DECISION:

1. Does smoking appear to be a behavior over which school authorities have control?

2. If Priscilla were 18-years-old, would the principal's authority be different?

3. Do you think there is any basis for a complaint that Priscilla's rights have been violated?

VARIATION ON PROBLEM NUMBER THREE

Which of the following school regulations would appear to be valid on the basis of the court's decision in State vs. Green? (As stated earlier in this chapter).

A rule requiring skirts to be no higher than four inches above the knee.

A rule forbidding the wearing of hats in school.

A rule prohibiting students from using their lockers, except before classes in the morning, at noon, and after classes in the afternoon.

BASIC PROBLEM NUMBER FOUR

FACTS:

Mr. P., in his second year of teaching at the high school, had been notified that his contract would not be renewed for the coming year, primarily because of the school's financial situation. Mr. P. accepted this decision but many of the students were upset. They felt that Mr. P. was one of the best teachers in the school. To voice their protest they planned to have a sit-in at the next meeting of the school board; specifically, they planned to sit in the hall outside the meeting room. The school board has decided to ask the district court for an injunction to prevent the sit-in. In considering the possibility of an injunction, the court would basically be deciding the limits of the rights of students. Examine the following laws and propose your own decision.

LAW:

1. *First Amendment:* "Congress shall make no law. . .abridging. . .the right of the people peaceably to assemble. . ."

2. Justice Fortas, writing the majority opinion in *Tinker vs. Des Moines School Dist., 393 U.S. 503 (1969)* held that:

"First Amendment rights, applied in the light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the school house gate. . .In our system, state-operated schools may not be enclaves of totalitarianism. . . **Students in school as well as out of school are 'persons' under our *Constitution*. . .But conduct by the student, in class or out of it, which for any reason--whether it stems from time, place, or behavior--materially disrupts classroom or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech."**

*3. **Disturbing Congregations or Other Assemblies.** *Iowa Code, Section 744.2 (1975).* If any person willfully disturb any assembly of persons met for religious worship. . .or if any person willfully disturb or interrupt any school, school meeting, teachers institute. . .he shall be punished by imprisonment in the county jail not more than thirty days or by fine not exceeding one hundred dollars."

*4. **Unlawful Assembly.** *Iowa Code, Section 743.1 (1975).* "When three or more persons in a violent or tumultuous manner assemble together to do an unlawful act, or, when together, attempt to do an act, whether legal or unlawful act, in an unlawful, violent, or tumultuous manner, to the disturbance of others, they are guilty of an unlawful assembly, and shall be imprisoned in the county jail not more than thirty days, or be fined not exceeding one hundred dollars."

*5. **Riot Defined.** *Iowa Code, Section 743.2 (1975).* "When three or more persons together and in a violent or tumultuous manner commit an unlawful act, or together do a lawful act in an unlawful, violent, or tumultuous manner, to the disturbance of others, they are guilty of a riot and shall be punished as provided in *Section 743.1.*"

*NOTE: The above sections of the Iowa law on public disorder have been repealed, effective January 1, 1978, and will be replaced by *Division 13, Chapter 1* of the new *Iowa Criminal Code.*

DECISION:

1. Would you grant an injunction? State the principle of law which led to your decision.

2. If the students, in addition to sitting in the halls, also planned to sing during the meeting of the school board, would your decision remain the same?

3. Would it appear that the school board could bring a criminal charge of unlawful assembly against the student protesters if the injunction was not granted and the students went ahead with their plans?

VARIATION ON PROBLEM NUMBER FOUR

Facts:

Suppose that, instead of going to the school board meeting, the students made large signs of protest and carried these in school.

Decision:

Would the principal be acting within proper authority in ordering the students to put the signs away? Or would such an order be a violation of the students' rights?

SPECIAL PROBLEM*

FACTS:

Arthur had played lead guitar with a rock group during the summer and was planning to continue during the school year on weekends. He had not expected to encounter trouble in school because of this, but apparently his long hair was in violation of the school dress code. Instead of cutting his hair, Arthur has sought the service of an attorney and is suing the principal and the school board, asking the court to grant an injunction which would prevent the principal from expelling him.

LAW:

The law which you will need to examine is contained in a similar court case, Sims vs. Colfax Community School District. The decision of the judge is reprinted following in its entirety. Because of the complexity of the case, it will be helpful to know what the judge was doing when he wrote this decision.

The case before Judge Hanson of the U.S. District Court was concerned with a school board's power to regulate hair length. Since the case was tried without a jury, the decision was entirely up to the judge. After he had listened to both the plaintiff's argument and the defendant's argument, the judge wrote his decision which contained the following elements (basically in the order of presentation):

1. Summary of facts.

2. Examination of previous court decisions (called precedents) and the *Iowa Code.* In this portion of his decision, the judge examines the various points raised by both the plaintiff and the defendant. He attempts to determine whether the decisions in other cases or the *Iowa (or Federal) Code* apply to the particular case before him. As you will see, the judge looks at all possible sides of the issue.

3. Decision on the particular issue.

4. Court Order

NOTE: **In this problem you will assume the role of an attorney, either for the plaintiff, Arthur, or the defendant, the principal and the school board. Choose your client after you have read the facts of the case. Then study the court case, Sims vs. Colfax Community School District. This court decision will provide you with relevant, legal material for your own decision. Prepare your court presentation to include the following elements.**

1. A brief opening statement, explaining what you intend to show.

2. Examination of witnesses. You may simply list the witnesses which you would intend to call and the questions which you would ask. Or, with the cooperation of the teacher, classmates, could play the roles of different witnesses. The purpose of this part would be to establish the facts.

3. Closing statement. In this part you would argue your client's case by pointing to the issues of law and previous court decisions.

*Because of the length of this problem, the 'decision' portion is presented at the beginning.

STUDENT AND SCHOOL

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UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF IOWA

CENTRAL DIVISION

SUSAN SIMS, Minor, by her
Father and Next Friend
Aeric Sims,
Plaintiff

Civil No. 8-2357-C-2

MEMORANDUM AND ORDER

vs.
COLFAX COMMUNITY SCHOOL
DISTRICT, et al,
Defendants

The matter before the Court is the constitutionality of a public school regulation which seeks to control the length of students' hair. Jurisdiction of this cause is predicated and admitted under Title 42 U.S.C., Section 1981, 1983 and Title 28 U.S.C., Sections 2281, 2284 on the allegation that the action by the defendants violates a federal constitutional right guaranteed the plaintiff under the Ninth and Fourteenth Amendments to the United States Constitution.

Plaintiff, Susan Sims, brings this action by her father and next friend, Aeric Sims. Plaintiff, a student in the Colfax Community School, was suspended from school on December 2, 1968, for her failure to comply with a hair rule as set forth in a student handbook. This handbook which is distributed to all students at the commencement of the school year contains various rules and regulations promulgated by school officials to govern student conduct. The rule concerning students' hair which is being challenged by plaintiff states, to-wit:

> Hair must be kept one finger width above
> the eyebrows, clear across the forehead.

On January 13, 1969, the parties entered into a stipulation whereby plaintiff was permitted to return to school and continue her education. This stipulation provided the following:

(1) Plaintiff would voluntarily comply with the hair rule; (2) Such action by plaintiff would be without prejudice to further legal action and (3) No administrative penalties would be imposed by reason of plaintiff's absences incurred by reason of the claimed violation of the hair rule and that plaintiff would be assisted in her make-up work. Plaintiff subsequently filed her suit challenging the consititutionality of the hair rule and this matter was tried to the Court without a jury.

The precise issue to be decided by the Court is whether the rule in question violates the plaintiff's constitutional rights. At the outset the Court thinks it appropriate to state that the issue before the Court is not a novel one. Indeed, school regulations concerning hair length and other hirsuite adornments. See, e.g., Griffin vs. Tatum, 300 F. Supp. 60 (M.D. Ala., 1969); Crews vs. Clones, 303 F. Supp. 1370 (S.D. Ind., 1969); Lucia vs. Duggan, 303 F. Supp. 112 (D. Mass. 1969); Breen vs. Kahl, 296 F. Supp. 702 (W.D. Wis., 1969); Ferrel vs. Dallas Ind. School Dist., 261 F. Supp. 545 (N.D. Texas, 1966) aff'd. 392 F. 2d 697 (5th Cir. 1968). However to the Court's knowledge, this is the first case involving the hair length of a female student.

The Court well knows that the field of female coiffure is one of shifting sand trodden only by the most resolute of men. The Court thus undertakes this journey with some trepidation. Since time immemorial attempts to impose standards of appearance upon the fairer sex have been frought with peril. Arbiters of hirsuite fashion, perhaps understanding the chameleon nature of the subject matter, have approached the problem with more innovation than insight. Against this delicate social milieu and ever mindful of the equal protection clause, this Court undertakes to comb the tangled roots of this hairy issue.

It cannot be seriously disputed that the interest of the State in maintaining an educational system is of such importance that the State is in fact charged with the duty to further and protect the public school system. Nor can it be denied that rules and regulations governing student conduct are required to maintain an orderly educational system. School officials of necessity have thus been given a wide latitude of discretion in formulating rules and regulations to prescribe and control student conduct within the school. Iowa Code Section 279.8, 282.4 (1966). However, this discretion is not unlimited. Only those school rules and regulations that are reasonable are permissable. Tinker vs. Des Moines School Dist. 393 U.S. 503 (1969); Burnside vs. Byars, 363 F.2d 744 (5th Cir. 1966); Blackwell vs. Issaquena County Board of Educ., 363 F.2d 749 (5th Cir. 1966).

It must, therefore, be recognized that under our democratic system public school officials may not act autocratically nor are they vested with absolute authority over their students. As the Supreme Court stated in Tinker vs. Des Moines School District., 393 U.S. at 511:

"Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect. . ."

The issue herein must therefore be resolved by deciding whether the hair regulation contained in the student handbook of the Colfax Community School and promulgated by its duly authorized representatives is reasonable. The appropriate analysis in determining reasonableness is that of weighing the individual's interest in engaging in the forbidden activity.

The case law concerning hair regulations in public secondary schools demonstrates the difficulty in characterizing the interest a student has in the free choice of hair style. Some courts have assumed that a student's interest in the selection of hair style is to be afforded the same degree of protection as that granted First Amendment rights such as free speech. Crews vs. Clones, supra. Other courts have stated that a student's choice of hair style is at least a highly protected right though possibly not within the intendment of the First Amendment. Griffin vs. Tatum, supra; Breen vs. Kahl, supra; Davis vs. Firment, 269 F. Supp. 524 (E.D. La., 1967). aff'd 108 F.2d 1085 (5th Circ. 1969); Ferrell vs. Dallas Independent School Dist., supra; Westley vs. Rossi, 38 LW 2257 (U.S.D.C. Minn., 1969).

Accordingly, because the courts above have attached great importance to choice of hair style by public school students, it has been held that the State is permitted to invade this interest only upon a showing of compelling reasons for so doing or upon a showing that if the forbidden conduct is allowed there would be a material and substantial interference to the educational system. Consequently, hair rules have been upheld where the school demonstrated that long hair actually resulted in disruption of the school. Incidents of disruption that have been shown to result from long hair have been in the nature of harassment, use of obscene or derogatory language, fights, health and sanitation problems, physical dangers, obscene appearance, and distraction of other students. Ferrell vs. Dallas Independent School Dist., supra; Davis vs. Firment, supra: Conversely, if the school was unable to support factually the hair rule with incidents of disruption within the school, the hair rules have been found unreasonable and therefore, unconstitutional. Griffin vs. Tatum, supra; Breen vs. Kahl, supra; Richards vs. Thurston, 304 F. Supp. 449 (D. Mass., 1969); Westley vs. Rossi, supra.

A few courts have adopted a different approach concerning the reasonableness of hair rules. These cases do not have any particular importance to a student's right to wear any hair style desired and merely state that if the hair rule is reasonable calculated to prevent disruption or interference, the rule is constitutional. Leonard vs. School Comm. of Attleboro, 349 Mass. 704. 212 N.F. 2d 468 (1965); Contreras vs. Merced Union High School District, unreported (F.D. Cal., Dec. 13, 1968). Thus these courts only look to see whether the rule might prevent disruption and do not necessarily require the school to make an objective showing of disruption.

In the instant case, plaintiff has neither pled nor argued the First Amendment. In fact, plaintiff's attorney stated on oral argument that the First Amendment was not pled because he felt it inapplicable. Consequently, the Court need not concern itself with the difficult question of whether a student's person and untrammelled selection of hair style is protected under the First Amendment.

Nevertheless, this Court finds that regardless of the applicability of the First Amendment a student's free choice of his appearance is constitutionally protected under the due process clause of the Fourteenth Amendment. Griffin vs. Tatum, supra; Breen vs. Kahl, supra; Zachry vs. Brown, 299 F. Supp. 1360 (N.D. Ala., 1969). Moreover, the Court finds that because every individual should have the right to express his individuality and personality, any rule seeking to infringe such a right will not enjoy a "presumption of constitutionality." In other words, school hair rules are reasonable and thus constitutional only if the school can objectively show that such a rule does in fact prevent some disruption or interference of the school system.

As the Court stated in the well-reasoned opinion of Griffin vs. Tatum, supra, and in which this Court fully concurs:

". . .Although there is disagreement over the proper analytical framework, there can be little doubt that the Constutution protects the freedoms to determine one's own hair style and otherwise to govern one's personal appearance. Indeed, the exercise of these freedoms is highly important in preserving the vitality of our traditional concepts of personality and individuality. In this connection Judge Doyle observed in Breen vs. Kahl, supra:

> *"An effort to use the power of the state to impair this freedom must also bear a substantial burden of justification whether the attempted justification be in terms of health, physical danger to others, obscenity, or distraction of others from various pursuits. For the state to impair this freedom, in the absence of a compelling subordinating interest in doing so, would offend a widely shared concept of human dignity, would assault personality and individuality, would undermine identity, and would invade human 'being.' It would violate a basic value 'implicit in the concept of ordered liberty.'*
>
> *In short, the freedom here protected is the right to some breathing space for the individual into which the government may intrude without carrying a substantial burden of justification. Thus, one may not have the right to walk nude down the median strip of a busy highway. But, until one's appearance carries with it a substantial risk of harm to others, it should be dictated by one's own taste or lack of it." Id. at 62.*

Defendants have urged two main reasons in support of the hair rule challenged herein. First, defendants seek to support the rule on the ground that this hair rule promotes good citizenship by teaching respect for authority and instilling discipline. The Court cannot accept this argument as a sufficient rationale to endow this rule herein with the necessary constitutional requisite of reasonableness. If such an argument were accepted, then any rule, no matter how arbitrary, capricious or abhorrent to our democratic process, could be justified by school officials.

The only other reason offered by the defendants factually for the existence of then rule was that the typing instructor was unable to see plaintiff's eye during class. The teacher testified that student eye observation is necessary in teaching proper typing method. While the Court does not doubt the pedagogical importance of eye observation in typing, the Court, as trier of fact, was totally unconvinced that such a problem actually existed in this case. The typing teacher testified that she could not remember as a matter of certainty how long plaintiff's hair was at the time in question nor was there any evidence that plaintiff was ever appraised of this reason for her suspension. Indeed, even if this were a proven fact, a simple admonition to the plaintiff about the difficulty the typing teacher was experiencing would in all probability have corrected the situation.

Furthermore the alleged typing difficulty is the only incident presented to the Court of any disruption or disturbance caused by a student's hair style or length in the entire school system. There was no evidence presented that any other disruption, distraction of other students, health problems, or anything else had ever occurred which rendered such a rule necessary. Consequently, the defendants have not met the required factual showing which would allow infringement of the plaintiff's constitutional rights. Mere conclusions based on subjective reasoning that long hair may be disruptive of the academic process is not the test of reasonableness in this area and such conclusions need not be considered.

This court thus finds that the rule contained in the Colfax Community School student handbook governing student hair length has unnecessarily and unreasonable circumscribed plaintiff's constitutional rights under the Fourteenth Amendment. In resting its decision on the Fourteenth Amendment, the Court need not consider plaintiff's Ninth Amendment argument. This result is in accord with the better reasoned authorities: Breen vs. Kahl, supra; Zachry vs. Brown, supra.

For further clarity and especially in light of the interest this case has evoked, the Court reiterates that in this area of the law, a court must proceed on a case by case approach. In a situation where a school is able to show disruption or some other activity detrimented to the school system in support of a hair rule as in some of the cases previously cited, then this Court might reach a different result. However, as here, where there has been an inadequate showing of any adverse effects that the school has suffered as a result of long hair, a rule such as this one is impermissable.

There has undoubtedly been too much said if not written concerning long hair or unusual hair styles. Mankind's experience has demonstrated that in this area of fashion, fads constantly come and go as the pendulum unceasinly swings from extreme to extreme. Thus, no doubt the proper characterization of the current controversy over student's hair is that of the proverbial "tempest in a teapot."

In Court II of the complaint, plaintiff seeks substantial money damages as a result of defendant's conduct. Suffice it to say that plaintiff offered no evidence at trial to support the allegations of Court II, not the prayer contained therein. Therefore, no money damages will be awarded and Court II of the complaint is dismissed.

Accordingly, IT IS HEREBY ORDERED that the Court II of the complaint is dismissed and that judgment will be entered to (1) declare the hair rule herein unconsitutional, (2) forbid further enforcement of said hair rule, (3) expunge from the school records any reference to plaintiff's suspension from which she complained, and (4) award plaintiff her statutory costs.

Dated: January 16, 1970

BY THE COURT

William C. Hanson
UNITED STATES DISTRICT JUDGE

STUDENT AND SCHOOL

QUESTIONS FOR DISCUSSION

1. Why might your personal freedom be restricted in school?

2. What restrictions might apply to the manner by which school authorities may control students?

Notes:

DEVELOP YOUR OWN "BASIC PROBLEM"

for

"STUDENTS AND SCHOOL"

BASIC PROBLEM NUMBER ONE

Facts

Law

Decision

VARIATION ON PROBLEM NUMBER ONE (Your own)

(Identify nature of "variation" in space provided)

Facts

Law

Decision

Student Name

KEY TERMS AND PHRASES

ANSWER
A written pleading by a defendant in a civil case in response to the charges of a plaintiff's complaint.

BAILIFF
An official of the court with the responsibility for keeping order, swearing in witnesses, and guarding the jury.

CIVIL LAW
That portion of the law which regulates disputes between private citizens.

CLERK OF COURT
An official of the court who manages all the paperwork required for the conduct of a trial. In particular, the clerk marks and controls all documents and exhibits.

COMPLAINT
A written statement in which a plaintiff asks the court to redress a wrong or injury or declare specific rights. Intended primarily to inform the court and the defendant, the complaint will contain the nature and facts of the charge and the remedy sought.

CONTRACT
An agreement between two parties, each of whom promises to act in a particular manner.

CONTRIBUTORY NEGLIGENCE
The negligence of a plaintiff which, along with that of the defendant, is the proximate cause of an injury.

COURTS
The place where civil and criminal disputes are settled. A variety of courts exist within the legal system of the United States. These courts differ in respect to two factors:

1. Original or appellate jurisdiction. A court of original jurisdiction is the court in which certain cases are tried. A court of appellate jurisdiction is a court which hears cases of appeal from lower courts. An appeal is an attempt on the part of one party of a case to have the decision of the lower court reversed.

2. The nature of cases under the jurisdiction of the court. In criminal law there are basically two types of cases: felonies and misdemeanors. In civil law the cases are primarily distinguished by the amount of money involved, the particular parties in the case and, in some instances, the nature of the relief sought.

In Iowa there are two types of state courts: The Iowa Supreme Court and eight District Courts. The Supreme Court is the appellate court, the District Court is the court of original jurisdiction. The Supreme Court consists of nine justices. Each district court has three different kinds of judges: District Judge, District Associate Judge, and Magistrate. The distinguishing characteristic for the three types of judges is found in the types of cases over which they have jurisdiction. A District Judge will have jurisdiction over all criminal and civil cases within Iowa law whereas the other two judges are limited to certain types of cases as specified in the Iowa Code. A magistrate, for example, would have jurisdiction over traffic violations and small claims proceedings (amount of money involved is less than one thousand dollars), but would not have jurisdiction over felonies or civil cases where the amount of money is more than one thousand dollars. At the present time the Iowa General Assembly has approved a new appellate court which once established will hear many of the appeals formerly sent directly to the Iowa Supreme Court.

COURT REPORTER
A court official who makes a verbatum record of court proceedings.

CRIMINAL LAW
That portion of the law which regulates the behavior of citizens for the good of society or the state.

DAMAGES
The amount of money awarded to a plaintiff who has suffered loss or injury.

DEFAMATION OF CHARACTER
The injury of a person's character or reputation by false and malicious statements. Defamation may be through libel (printed statement or pictures) or slander (spoken word).

DEFENDANT
The person against whom a complaint is filed.

DISSOLUTION
The termination of a marriage--in contrast to an annulment which is a declaration that a marriage is void or never existed.

JUDGE
Chief official of the court. The judge has the responsibility of conducting a fair and orderly trial. In cases of a trial without a jury, the judge also renders a verdict.

JURY
A certain number (in Iowa, twelve) of citizens selected to hear a case and render a verdict.

LAWSUIT
An action in civil law whereby one party (the plaintiff) seeks to force another party (the defendant) to do something or to stop doing something.

LAWYER
A professional, trained in the law and hired to represent a client in legal proceedings. Normally, both the plaintiff and the defendant are represented by lawyers.

LEASE
An agreement between a landlord and a tenant for the possession of land and/or a building.

NEGLIGENCE
An act or failure to act in a reasonable and prudent manner.

PLAINTIFF
The person who initiates a lawsuit by filing a complaint against the defendant.

PROXIMATE CAUSE
In injury cases, the last negligent act without which the injury would not have resulted.

REMEDY
The final goal of a lawsuit; for example, damages.

TORT
A private wrong or injury--in contrast to a crime which is a public wrong or injury.

WARRANTY
A statement or representation by a seller that an article of merchandise has certain qualities or characteristics.

SOURCES OF LAWS IN THE UNITED STATES

The laws which apply to both crimes and private disputes originate with a variety of governmental bodies and may be classfied into four categories:

CONSTITUTIONS

The federal government and the governments of all fifty states have constitu utions--written documents which, in general establish the powers of the particular government and provide for the basic rights of the citizens. For example, the federal constitution establishes three branches of government (The Presidency, Congress, and Federal Courts) and gives certain powers to each branch.

STATUES

The Congress of the United States and the legislatures of the fifty states are primarily engaged in passing statutes which are laws which govern the behavior of citizens and protect their rights. For example, statutes prohibit murder, provide rules for driving cars, and regulate business transactions. Local governmental bodies, such as city councils, also pass statutes, called ordinances.

COURT DECISIONS

The laws contained in constitutions or the statutes of legislatures cannot cover every possible situation of criminal behavior or private dispute. It is up to the courts to apply these general laws to each situation. These court decisions, called precedents, become the law when cases of a similar nature arise. For example, the Supreme Court of the United States decided that the rights of a particular group of students had veen violated when they had been suspended from school without a hearing. If a similar case comes before the court, this decision of the Supreme Court would apply with the force of law in this new case. This source of law is termed "common law."

RULES OF ADMINISTRATIVE AGENCIES

All governments, federal and state have various agencies and offices which exist to carry out statutes. In the federal government, we can mention the Federal Bureau of Investigation, the Department of Defense, and the Internal Revenue Service. The state of Iowa has similar agencies like: the Bureau of Criminal Investigation and the Department of Transportation. All of these agencies make rules to enforce the law, and these rules have the force of law. For example, rulings of the Food and Drug Administration that certain drugs can be sold by prescription only have the same validity as if such a prohibition had actually been passed by Congress in the form of a statute.

LAW-RELATED COMPETENCIES

This section starting with the introduction below is a reprint from the State of Pennsylvania's publication, LAW-RELATED COMPETENCIES. Permission to reprint this document has been granted from the Pennsylvania State Department of Education. Any opinions expressed or selection of content given herein does not necessarily reflect the position or policy of the Iowa Department of Public Instruction and no official endorsement by that agency should be inferred. However, interested parties may find this to be a useful working document in their curricular efforts in law-focused education, kindergarten through grade 12.

Assessment tests have been developed to go with the three program levels (primary, intermediate and secondary) by the Pennsylvania State Department of Education.

Inquiries must be made to:

Robert A. Wingert
Program Advisor,–Social Studies
State Department of Education
Harrisburg, PA 17126

INTRODUCTION

In 1973 Secretary of Education John C. Pittenger declared legal education a curriculum priority of the Department of Education. A major component of this curriculum development was the formation of the goals of legal education. The department's concern for the student led to the goals being formulated in terms of student competencies developed by an interdisciplinary task force in the department. As they were developed, the competencies were sent to lawyers, judges, enforcement officers, correctional personnel and educators for critiques. Their suggestions were incorporated into the final list of competencies and subcompetencies.

This list is the fundamental building block around which curriculum can be developed. While many new resources became available in the past several years, each school district is unique with regard to its staff, its community and its leadership. Thus, it is hoped that these competencies will be a unified core around which individual districts can build many available resources into their own curriculum offerings.

RATIONALE OF LAW-RELATED COMPETENCIES

PURPOSE

Develop an educational program that clarifies the basic issue of the justice system, i.e. protecting the rights of an individual while safeguarding the security of society. These ideas show that the concept of law is a dynamic and changing force in society rather than a static institution. The program is expected to affect student attitudes, values, skills and cognitive achievements from kindergarten to 12th grade.

The original list of competencies was developed on the premise that at the conclusion of 12th grade, students would achieve these goals. The sub-competencies were developed more specifically according to grade level block:

Primary:	K - 4
Intermediate:	5 - 8
Secondary:	9 -12

The competencies were organized into three categories. The section on "Groups Establish Certain Acceptable Behavior" focuses upon the need for rules and laws that protect both the individual and society. The competencies include both affective and cognitive aspects of the issue. There is a strong overlap between legal and political education within this area but the competencies expressed are those specifically related to the law.

Under the section "Groups Differentiate Between Acceptable and Unacceptable Behavior" the competencies relate to varied types of unacceptable and illegal behavior as well as the issue of legitimate authority.

In the last section, "Groups React in Varied Ways to Acceptable and Unacceptable Behavior," areas of enforcement and correction are emphasized. Originally, a separate section on punishment was included, but the system of justice frequently combines punishment and rehabilitation in its deliberations so these considerations were included under a single section. This also facilitated a more positive approach to the situation.

There has been an attempt to look at law education from both a broad anthropological perspective and a specific realistic approach. The manner in which the instruction takes place will be the key to the success of the program.

The competencies were prepared to give direction in the teaching of law-related education. Along with these, there are other components of the program that are considered equally important, such as:

1. Provide greater substantive background in law-related content.

2. Provide a wide variety of resources for teacher instructional purposes.

3. Develop techniques of instruction such as simulation, use of case study analysis, research techniques and utilization of justice resource personnel.

4. Inspire students to develop a respect for, an understanding of, the law when they resolve conflicts, thus generating their continuing interest and participation in the legal system.

Since our society tends to stereotype law and personnel in the justice system, the development of more supportive attitudes is essential. A key way to accomplish this is through the positive use of justice personnel. It is the intention of the PDE to facilitate the development of this type of support system for each legal education site.

These competencies have been developed as a guide to curriculum and evaluation, though the instructional approach will influence the program drastically. This is why an in-service program has been devised to complement the competencies. Most schools provide some law education within the general social studies program, but few have given much thought to implications for elementary education. It is hoped that teachers and school districts involved in legal education seriously consider the stated goals and aim toward K - 12 implementation, either through existing or new curriculums, choosing those competencies and subcompetencies that seem most appropriate. The department will offer aid in evaluation so that the impact of the program can be judged on a short term basis, although the real value of the education will depend on long-range citizenship results. Hopefully, legal education will encourage a more knowledgeable, more perceptive, more involved citizenry.

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LEGAL EDUCATION COMPETENCIES

A. Groups Establish Certain Acceptable Behavior

1. Demonstrate the need for rules and laws within a group and between groups.
2. Identify various groups that have established rules/laws and give examples of how these regulations further the purposes of the groups.
3. Analyze how laws are made and changed in various cultures and groups.
4. Identify rights protected by law.
5. Show respect for other people and their property.
6. Demonstrate a knowledge of various methods of settling disagreements.
7. Demonstrate responsibility in observing rules/laws.

B. Groups Differentiate Between Acceptable and Unacceptable Behavior

1. Compare deviant, delinquent and criminal behavior and provide examples of how society reacts to each.
2. Discriminate among civil, criminal and regulatory laws.
3. Demonstrate an understanding of social, economic and psychological causes of unacceptable/criminal behavior.
4. Determine the meaning and importance of legitimate authority.
5. Demonstrate the ability to critically analyze case studies.
6. Identify psychological, social and economic conditions that affect the actions of persons who implement the system of justice.

C. Groups React in Various Ways to Acceptable and Unacceptable Behavior

1. Demonstrate an understanding of the role and limitation of various types of law enforcement in our culture and other cultures.
2. Demonstrate an understanding of how and why society punishes people by loss of:
   a. Privilege
   b. Property
   c. Life (includes physical punishment)
3. Evaluate how sentencing is affected by the nature and circumstances of the crime and the offender.
4. Demonstrate a knowledge of various types of correctional institutions.
5. Determine how society reinforces acceptable behavior.
6. Demonstrate an awareness of how society attempts to change the behavior of offenders.

SUBCOMPETENCIES - LEGAL EDUCATION

PRIMARY LEVEL--K-4

A. Groups Establish Certain Acceptable Behavior

1. Demonstrate the need for rules and laws within a group and between groups.

   a. Demonstrate an understanding of the meaning of a group.

   b. Identify the groups of which the student is a member.

   c. Demonstrate a knowledge of several ways in which families and other groups are alike.

   d. Demonstrate a knowledge of several ways families and other groups are different.

   e. Recognize the need for groups in our society.

   f. Identify the need for rules within a group and between groups.

2. Identify various groups that have established rules/laws and give examples of how these regulations further the purpose of the groups.

   a. Identify rules followed in school, home, play, etc.

   b. Demonstrate an awareness of how rules contribute to the well-being of these groups and to the well-being of the child.

   c. Identify agencies/groups which develop rules/laws.

3. Analyze how laws are made and changed in various cultures and groups.

   a. Demonstrate knowledge of need for change.

   b. Demonstrate a knowledge of the need for leadership in groups and clarify the ways people become leaders.

   c. Identify the leaders of the groups to which the student belongs.

   d. Provide examples of how rules/laws can be made by group leaders in the home, at play, at school, in the community and in the state and national governments.

   e. Provide examples of how rules/laws can be changed.

   f. Demonstrate a knowledge of the role of an individual in making or changing laws/rules.

   g. Display an understanding of how changed rules/laws have affected groups in a positive or negative way.

   h. In a changed classroom environment, identify rules that could govern behavior under the new conditions.

4. Identify rights protected by law.

   a. Demonstrate an understanding of the need for protecting rights of individuals.

   b. Provide examples of how laws protect individual rights.

5. Show respect for other people and their property.

   a. Determine what respect means.

   b. Demonstrate what good manners are and explain why they are important to society.

c. Differentiate between personal property and public property.

d. Demonstrate how one's action toward others will affect the behavior of others toward oneself.

e. Display observable responsibility for personal belongings and school materials.

f. Indicate through actions a respect for other people.

g. Determine what personal qualities a leader should possess.

6. Demonstrate a knowledge of various methods of settling disagreements.

a. Demonstrate an awareness of why disagreements occur between individuals and groups.

b. Demonstrate a knowledge of several ways that disagreements can be settled.

c. Determine the need for rules/laws as a means for settling disagreements.

7. Accept responsibility in observing rules/laws.

a. Determine the meaning of responsibility.

b. Demonstrate an awareness of how laws/rules can help in developing responsibility in each group member.

c. Demonstrate an awareness of how responsibility of individual group members is necessary for the preservation of a group.

d. Demonstrate responsible action and adherence to school rules through daily action.

B. Groups Differentiate Between Acceptable and Unacceptable Behavior

1. Compare deviant, delinquent and criminal behavior and provide examples of how society reacts to each.

a. Demonstrate an understanding of acceptable behavior.

b. Demonstrate an understanding of acceptable behaviors for various situations.

c. Demonstrate an understanding of unacceptable behaviors for various situations.

d. Demonstrate an understanding of how individuals and/or groups react to acceptable behavior.

e. Demonstrate an understanding of how individuals and/or groups react to unacceptable behavior.

f. Demonstrate an awareness of ways in which acceptable behavior may produce positive results for the individual and/or the group.

g. Demonstrate an awareness of ways in which unacceptable behavior may produce negative results for the individual and/or the group.

2. Discriminate among civil, criminal and regulatory laws.

a. Determine the difference between rules and laws.

b. Demonstrate an awareness of civil law.

c. Provide examples of some civil laws.

d. Demonstrate an awareness of what a criminal act is.

e. Identify examples of criminal laws.

f. Demonstrate an awareness of the meaning of regulations.

g. Identify examples of regulations.

3. Demonstrate an understanding of social, economic and psychological causes of unacceptable/criminal behavior.

a. Identify some reasons why people engage in unacceptable/criminal behavior.

b. Determine to the best of his/her ability those behaviors which may be caused by, or related to, social, economic and psychological factors.

4. Determine the meaning and importance of legitimate authority.

a. Demonstrate an understanding of authority.

b. Identify authority figures of the groups to which one belongs (i.e. family, church, school).

c. Identify examples of the legitimate functions of these authority figures.

d. Identify municipal, state and national figures and/or groups of authority.

e. Identify examples of the legitimate functions of these authority figures and/or groups.

5. Demonstrate the ability to critically analyze case studies related to the justice system.

a. React to selected law-related case studies, i.e., role playing.

b. Develop a knowledge of simple legal terms (lawyer, court).

6. Identify psychological, social and economic conditions that affect the action of persons who implement the system of justice.

a. Demonstrate an awareness of how people's actions are affected by prevailing conditions, i.e., (1) stress; (2) fatigue; (3) anger; (4) frustration; (5) alienation.

b. Demonstrate an awareness of how one's behavior toward others is affected by prevailing conditions.

c. Identify examples by which rules/laws may be affected by people's behavior under prevailing conditions.

d. Identify examples of how individuals' and or groups' rights may be affected by the behavior/attitude of other individuals responsible for making/enforcing rules and laws.

e. Identify examples of how people who implement the system of justice may react to certain individual and/or group behaviors.

C. Groups React in Various Ways to Acceptable and Unacceptable Behavior

1. Demonstrate an understanding of the role and limitation of various types of law enforcement in our and other cultures.

a. Determine how groups may control unacceptable behavior by their members.

b. Demonstrate an understanding of law enforcement.

c. Demonstrate an awareness of methods of law enforcement in past and/or present cultures.

d. Determine why limitations must be placed upon the action of people enforcing rules/laws.

2. Demonstrate an understanding of how society punishes people by the loss of:

   privilege
   property
   life (includes physical punishment)

   a. Identify examples of child behavior that might be punished.

   b. Demonstrate an awareness of ways in which a child might be denied privileges in the home, at school or in the play group.

   c. Identify ways in which punishment results in the permanent or temporary loss of personal property.

   d. Determine ways in which physical punishment may, or may not, be used in the home, at school or in the play group.

3. Evaluate how sentencing is affected by the nature and circumstances of the crime and the offender.

   a. Demonstrate an awareness of how punishment may vary according to the offense.

   b. Demonstrate an awareness of how punishment may vary according to the offender.

4. Demonstrate the knowledge of various types of correctional institutions.

   a. Identify several types of correctional institutions.

   b. Demonstrate an awareness of factors that may determine the institution in which lawbreakers are placed.

5. Determine how society reinforces acceptable behavior.

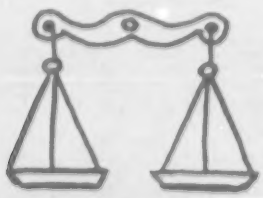
   a. Demonstrate an understanding of the term reward.

   b. Identify various forms of rewards.

   c. Determine various ways rewards affect behavior.

   d. Demonstrate an understanding of personal responsibility.

   e. Identify examples of personal actions that may be rewarded.



SUBCOMPETENCIES - LEGAL EDUCATION

INTERMEDIATE LEVEL--5-8

A. Groups Establish Certain Acceptable Behavior

1. Demonstrate the need for rules and laws within a group and between groups.

   a. In a given situation, predict what might happen if no laws existed.

   b. Demonstrate an understanding of various reasons for different types of laws.

   c. Demonstrate an awareness of how acceptable behavior may differ (ethnically, morally and legally) in various groups.

   d. Demonstrate an understanding of laws designed to regulate/protect individuals and those designed to regulate/protect groups.

   e. Determine ways laws aid people (other than restrictive regulations, i.e., Social Security laws, welfare laws, Bill of Rights, etc.).

2. Identify various groups that have established rules/laws and give examples of how these regulations have furthered the purpose of the groups.

   a. Identify several groups which have established laws and determine how these groups have benefited from said laws.

   b. Demonstrate a knowledge of procedures used by various groups (legislators, judges, executives, commission members) to make or change laws/regulations.

   c. Demonstrate how laws/rules may be similar and how they may differ between:

      (1) People living in different geographic and climatic conditions.
      (2) Countries with different economic and technical bases.
      (3) Military and civilian life.
      (4) People with different religious beliefs.
      (5) Countries with different historical traditions.

3. Analyze how laws are made and changed in various cultures and groups.

   a. Demonstrate a knowledge of and need for criteria for evaluating rules/laws, (e.g., compatible with society's values, enforceable, specific, clearly stated, etc.).

   b. Demonstrate a knowledge of the ways laws are made and changed in a:

      (1) Monarchy
      (2) Dictatorship
      (3) Democracy
      (4) Classroom
      (5) School Board
      (6) Athletic Event
      (7) Church
      (8) Corporation
      (9) Gang

   c. Use voting and majority rule as a means of decision-making.

   d. Construct a law/rule for governing personal behavior in regard to activities on the playground, in the classroom, or at home.

4. Identify rights protected by laws.

   a. Demonstrate an understanding of due process.

   b. Demonstrate an understanding of the basic human rights, as noted in the Bill of rights.

   c. Determine the limitations of the rights of juveniles and the reasons for these limitations.

d. Provided with case studies involving problems of personal and property rights, propose and substantiate a solution.

e. Determine criteria for developing limits on authority and abuse of power on the part of group leaders.

5. Show respect for other people and their property.

a. Overtly demonstrate concern for other people, their opinions and their property.

b. Demonstrate an awareness of the cost of vandalism to society.

6. Demonstrate a knowledge of various methods of settling disagreements.

a. Determine factors which create conflicts among individuals and societies.

b. Develop a knowledge of various methods for resolving conflict.

7. Accept responsibility in observing rules/laws.

a. Determine benefits and costs of responsibility.

b. Demonstrate acceptance of rules/laws by observing those in effect in the school.

c. Demonstrate an awareness of how responsible behavior may be encouraged.

d. Demonstrate some dual responsibilities and rights of:

(1) Parent - Child
(2) Teacher - Student
(3) Employer - Employee
(4) Citizen - Government
(5) Friend - Friend
(6) Business Owner - Customer

B. Groups Differentiate Between Acceptable and Unacceptable Behavior

1. Compare deviant, delinquent and criminal behaviors and provide examples of how society reacts to each.

a. Demonstrate an understanding of deviant behavior and provide examples that are tolerated by society.

b. Differentiate among delinquent, neglected and criminal categories, as defined in Pennsylvania law.

c. Demonstrate a knowledge of the Juvenile Court Act and determine how it related to the rights of children.

2. Discriminate among civil, criminal and regulatory laws.

a. Demonstrate an understanding of summary offenses, misdemeanors, felonies and civil suits.

b. Demonstrate an understanding of regulatory laws.

3. Demonstrate an understanding of the social, economic and psychological causes of unacceptable criminal behavior.

a. Determine various reasons for unacceptable behavior in school.

b. Demonstrate an awareness of unacceptable adult behavior and predict reasons for such.

c. Demonstrate an awareness that values and behavior of groups may conflict with the values of society.

4. Determine the importance of legitimate authority.

a. Demonstrate an understanding of legitimate authority.

b. Determine the need for authority.

c. Differentiate between power and legitimate authority.

d. Demonstrate an understanding of the role of legitimate authority in making and applying laws.

5. Demonstrate the ability to critically analyze case studies.

a. Identify and describe a conflict of values in a given situation.

b. Identify information that will help in the solving of the problem; pose possible solutions; and predict consequences of alternative action.

c. Recognize trends through an analysis of statistical charts related to crime and delinquency.

d. Evaluate crime and justice as portrayed by TV, movies and other media.

6. Identify psychological, social and economic conditions that affect the actions of persons who implement the system of justice.

a. Demonstrate an awareness of the influence of financial resources on the operation of various aspects of the justice system.

b. Demonstrate an awareness of the personal difficulties faced by law enforcement authorities.

c. Identify the basic requirements for and role of:

(1) Police
(2) Lawyer
(3) Legal secretary
(4) Legal assistant
(5) Judge
(6) Court Clerk
(7) Court Prothonotary
(8) Court Administrator
(9) Court reporter
(10) Law librarian
(11) Correctional officer
(12) Probation and Parole Officer
(13) Bailiff
(14) Magistrate
(15) Other

C. Groups React in Various Ways to Acceptable and Unacceptable Behavior

1. Demonstrate an understanding of the role and limitation of various types of law enforcement in our culture and other cultures.

a. Determine the responsibility of parents for the behavior of their children.

b. Demonstrate an understanding of the need to protect the rights of both the accused and the law enforcement officer during an arrest.

c. Demonstrate an awareness of technology and science in law enforcement.

d. Given an example of an abuse of authority by a teacher, school official, or police officer; determine ways individuals can protect their rights.

e. Demonstrate a knowledge of the importance of evidence in trials.

f. Demonstrate a willingness to assume responsibilities to cooperate and assist in upholding rules and laws.

2. Demonstrate an understanding of how society punishes people by the loss of privilege, property and life (physical punishment).

a. Demonstrate an understanding of various methods of dealing with violators of rules and laws.

b. Demonstrate an awareness of different methods society uses to deal with juvenile offenders.

c. Determine both long and short range consequences of a police record.

d. Determine what types of restrictions are placed upon people who have been convicted of a crime (probation, incarceration, parole).

e. Demonstrate an awareness of the conflict between security and human rights in correctional institutions.

f. Demonstrate an awareness of the effects of punishment upon the family of the offender.

3. Evaluate how sentencing is affected by the nature and circumstances of the crime and the offender.

a. Demonstrate an understanding that different types of sentences are provided for varied types of offenses.

b. Determine what considerations should be given when sentencing law violators.

c. Demonstrate an understanding of the varied types of sentencing available to a judge in a juvenile proceeding.

d. Demonstrate a knowledge of the terms bail and bond and compare their advantages and disadvantages to the individual and society.

e. Determine reasons that certain groups (i.e. age, sex, race) of offenders may have a higher rate of sentencing than others.

4. Demonstrate a knowledge of varied types of correctional institutions.

a. Demonstrate an awareness of problems related to "take-in" facilities for holding arrested delinquents.

b. Demonstrate a knowledge of various types of correctional institutions to which juveniles may be assigned by the court.

c. Determine the differences between jails and penitentiaries.

5. Determine how our society reinforces acceptable behavior.

a. Identify examples of changing people's attitude by use of both material and psychological rewards.

b. Demonstrate an understanding of the importance of conformity in society.

6. Demonstrate an awareness of how society attempts to change behavior of offenders.

   a. Identify the advantages and disadvantages of parole.

   b. Determine the role of education in the rehabilitative process.

   c. Demonstrate a knowledge about community treatment centers.

   d. Demonstrate an awareness of the obstacles society places in the path of ex-offenders re-entering society.

SUBCOMPETENCIES - LEGAL EDUCATION

SECONDARY LEVEL

A. Groups Establish Certain Acceptable Behavior

1. Demonstrate the need for rules/laws within a group and between groups.

   a. Identify the various types of rules, laws and regulations which society has used to regulate behavior. (This should include religious laws, taboos, civil laws, criminal laws, tribal laws and societal customs).

   b. Demonstrate an understanding of the need for local, state, federal and international laws.

   c. Demonstrate an understanding of the need for constitutional, criminal, military and civil (e.g. contracts, torts, real property, etc.) laws.

   d. Determine the importance and limitations of international law.

2. Identify varied groups that have established rules/laws, and give examples of how these regulations have furthered the purposes of the groups.

   a. Identify and provide specific examples of how rules/laws have furthered the purpose of:

      (1) Business organizations
      (2) Labor or professional organizations
      (3) Bureaucracies or service organizations
      (4) Safety, health and recreation groups
      (5) Special interest groups

   b. Demonstrate an understanding of how student government and school board rules and regulations further the interests of the school community.

3. Analyze how laws are made and changed in various groups and cultures.

   a. Determine how laws are made and changed in a democracy, i.e. legislation, administrative, judicial interpretation, regulatory statutes.

   b. Identify and provide examples of how laws are made and changed in other political systems.

   c. Determine the effect of the media in changing the law.

   d. Determine the effect of special interest groups in changing the law.

   e. Demonstrate a knowledge of how an individual citizen can influence the making and changing of laws.

   f. Demonstrate an understanding of civil disobedience as a method of changing laws.

4. Identify rights that are protected by law.

   a. Demonstrate an understanding of how the Constitution protects human rights.

   b. Demonstrate an awareness of how changing societal attitudes has affected the legal protection afforded minorities and women.

   c. Determine the legal rights and limitations of rights related to juvenile law.

   d. Determine the responsibilities of society to the victims of crime.

   e. Identify responsibilities inherent in the exercise of a specific right.

f. Identify a position and rationale relating to a law on human rights.

g. Demonstrate a knowledge about governmental restrictions related to ownership rights.

h. Determine the rights or lack of rights of the dispossessed (i.e. poor, aged, or minority).

5. Show respect for people and their property.

a. Differentiate between the rights and responsibilities of partners in a contract.

b. Demonstrate an understanding of the need for society to guard the safety and rights of its citizens.

c. Identify the responsibilities of property owners toward the public.

d. Exhibit behavior that indicates a respect for people, their opinions, and their property.

6. Demonstrate a knowledge of various methods of settling disagreements.

a. Demonstrate a knowledge of procedures that can be used to resolve conflict in criminal and civil cases.

b. Identify problems caused by having different sets of regulations/laws in different states, i.e. varying motor vehicle codes, environmental regulations, welfare benefits, etc.

c. Identify laws or cases that have resulted in conflict due to their application and/or interpretation.

d. Determine methods for resolving conflict in the following areas:

(1) Employment
(2) Family
(3) Housing
(4) Freedom of speech & press
(5) Privacy
(6) Education
(7) Life style

7. Accept responsibility for knowing and observing laws/rules.

a. Identify some rules governing behavior of students within the school that could be changed for the good of all concerned.

b. Indicate a knowledge of some service agencies in the community and explain their philosophy of operation and service.

c. Demonstrate the ability to complete sample income tax forms for local, state and federal reports.

d. Demonstrate knowledge of legal procedures to follow in every day law (for example, motor vehicle accidents, the use of small claims court, acquiring building and sewage permits, obtaining passports, obtaining a marriage license, etc.).

e. Demonstrate the ability to locate information on local, state and federal laws and regulations. (Resources might include: Pennsylvania Bulletin, Purdons, Federal Register, U.S. Code and the Local Code of Ordinances).

B. Groups Differentiate Between Acceptable and Unacceptable Behavior

1. Compare deviant, delinquent and criminal behavior and provide examples of how society reacts to each.

   a. Identify the types of behavior which are considered unacceptable in our society but which were considered acceptable in other societies.

   b. Demonstrate an awareness of the importance of societal values to tolerance/intolerance for deviant behavior.

   c. Identify and provide historical examples of societal persecution/tolerance of deviant behavior.

   d. Demonstrate the ability to distinguish between deviant, delinquent and criminal behavior.

   e. Demonstrate an awareness of value changes that have caused conflicts in our history and identify several issues which might produce conflict in the future.

   f. Identify and provide historical examples of how society's changing values have resulted in redefining acceptable behavior.

2. Discriminate among civil, criminal and regulatory laws.

   a. Discriminate between statutory, regulatory and judge-made laws.

   b. Demonstrate an understanding of the differences between civil, criminal and regulatory laws.

   c. Demonstrate a knowledge of varied types of civil law.

   d. Determine what type of rights are protected by civil, criminal and regulatory laws.

   e. Demonstrate an awareness of laws most frequently broken by individuals of different ages and different sex.

3. Demonstrate an understanding of social, economic and psychological causes of unacceptable/criminal behavior.

   a. Identify groups which may not receive equal treatment under the law and suggest how this unequal treatment might lead to unacceptable behavior on the part of an individual from these groups.

   b. Determine the social, economic and psychological causes of unacceptable/criminal behavior.

   c. Determine strategies for social/economic reform to eliminate unacceptable/criminal behavior.

   d. Demonstrate an awareness of the effect of emotional and mental disturbances upon the incident of criminal behavior.

   e. Demonstrate an awareness of how society attempts to reduce psychological and emotional factors that might lead to unacceptable behavior.

4. Determine the importance of legitimate authority.

   a. Demonstrate a knowledge of the constitutional means by which legitimate authority may be changed and an awareness of legal procedures for removing people from authority.

b. Identify agencies whose authority comes from a legal source and trace the source of this authority.

c. Determine the limits of legitimate authority.

d. Demonstrate an understanding of how a citizen may lawfully show disagreement with legitimate authority.

e. Demonstrate an understanding of the need to separate the office of authority from the person in authority.

f. Demonstrate a knowledge of the hierarchy of the American Court System.

5. Demonstrate the ability to critically analyze data related to the law and justice system.

a. Identify the basic precepts upon which the American system of justice is based.

b. Identify and define common legal terms and special phrases with particular meaning to the court (e.g. time is of the essence, real and present danger, without prejudice, unnecessary hardship, etc.).

c. Determine significant facts by analysis of a case study.

d. Determine what legal issue is presented in a specific case.

e. Select and defend a solution of a case study.

f. Evaluate media coverage of crime and justice with particular attention to the public right to know vs. the rights of the accused.

g. Demonstrate a knowledge of procedures and incidents related to law and justice.

6. Identify psychological, social and economic conditions that affect the actions of persons who implement the justice system.

a. Identify specialists who are responsible for implementing the system of justice.

b. Demonstrate an awareness of the effects of prejudice as related to the justice system.

c. Demonstrate an awareness of and reasons for limiting the power of law enforcement personnel.

d. Determine the advantages and disadvantages of sentencing by:

(1) judge
(2) jury
(3) advisory board
(4) community council (i.e., as practiced in People's Republic of China).

e. Demonstrate an awareness of the problems of financial limitations within the justice system.

f. Demonstrate an awareness of the difficulty of arriving at truth in a situation where the law has been violated.

g. Demonstrate an awareness of the need to establish criteria for evaluating varied aspects of the justice system (i.e. police, courts, correctional institutions and legislative bodies).

C. Groups React in Various Ways to Acceptable and Unacceptable Behavior

1. Demonstrate an understanding of the role and limitation of various types of law enforcement in our culture and other cultures.

   a. Demonstrate an awareness of the human variables that affect law enforcement.

   b. Determine some consistencies and inconsistencies in law enforcement procedures.

   c. Demonstrate an understanding of human rights and how they are protected by different societies.

   d. Demonstrate the ability to differentiate the roles and the statutory limitations of local, state and federal police and regulatory agencies (consumer protection agencies, Internal Revenue Service, environmental protection agencies, public welfare caseworker, zoning board).

   e. Demonstrate an understanding of constitutional limitations on enforcement procedures.

   f. Determine the advantages and disadvantages of using law enforcement agencies to control or discourage dissent.

   g. Determine some reasons which may lead to the suspension of normal law enforcement procedures.

   h. Demonstrate a knowledge of some methods for dealing with a breakdown of law enforcement.

   i. Demonstrate an understanding of some problems in enforcing laws against victimless crimes (drug use, prostitution, drinking, parking violation).

2. Demonstrate an understanding of how society punishes people by the loss of privilege, property and life (physical punishment).

   a. Demonstrate an awareness of how society, through the centuries and in different cultures, has punished people by loss of privilege, property and life.

   b. Identify varied ways society punishes people today.

   c. Determine the advantages and disadvantages of punishment and rehabilitation as aspects of correctional systems.

   d. Demonstrate an awareness of several theories and systems of punishment.

   e. Determine the "just" and "unjust" aspects of the bail system.

   f. Demonstrate an understanding of the conflict between the need for security and the need for privacy when an individual is sentenced to an institution.

   g. Demonstrate an awareness of various attitudes toward capital punishment.

   h. Demonstrate an awareness of short and long range consequences for violations of laws concerning:

      (1) Drugs
      (2) Alcohol
      (3) Motor Vehicle Code
      (4) Marriage
      (5) Crimes against the person
      (6) Other

3. Evaluate how sentencing is affected by the nature and circumstances of the crime and the offender.

   a. Demonstrate an awareness of the philosophy that punishment should fit the nature of the crime.

   b. Determine the advantages and disadvantages of probation.

   c. Demonstrate an understanding of how the appeal system is designed to minimize the effects of unusual punishment or trial irregularities.

   d. Demonstrate an awareness of the human aspect of the justice system and of the variability of human judgment in determining sentences.

   e. Determine the effect of political considerations on sentencing.

4. Demonstrate a knowledge of various types of correctional institutions.

   a. Determine the need for correctional institutions.

   b. Show how various types of correctional institutions differ: state-federal prisons, diagnostic centers, institutions in the delinquent and neglected, community treatment centers.

   c. Demonstrate an awareness of the historical evolution of correctional institutions.

   d. Demonstrate an awareness of the financial burden correctional institutions place on society.

   e. Demonstrate an understanding of why there is a gap between the ideal and the real in correctional institutions.

   f. Demonstrate a knowledge of various types of correctional procedures that have been used.

5. Determine how society reinforces acceptable behavior.

   a. Identify and provide historical examples of how groups rewarded their members' acceptable behavior.

   b. Identify the needs for conformity, as required by groups, and the individual's rights and responsibilities within the group.

   c. Demonstrate an understanding of how society's values are reflected in its economic, educational and political systems.

   d. Clarify one's own values in relation to society's values.

6. Demonstrate an awareness of how society attempts to change the behavior of offenders.

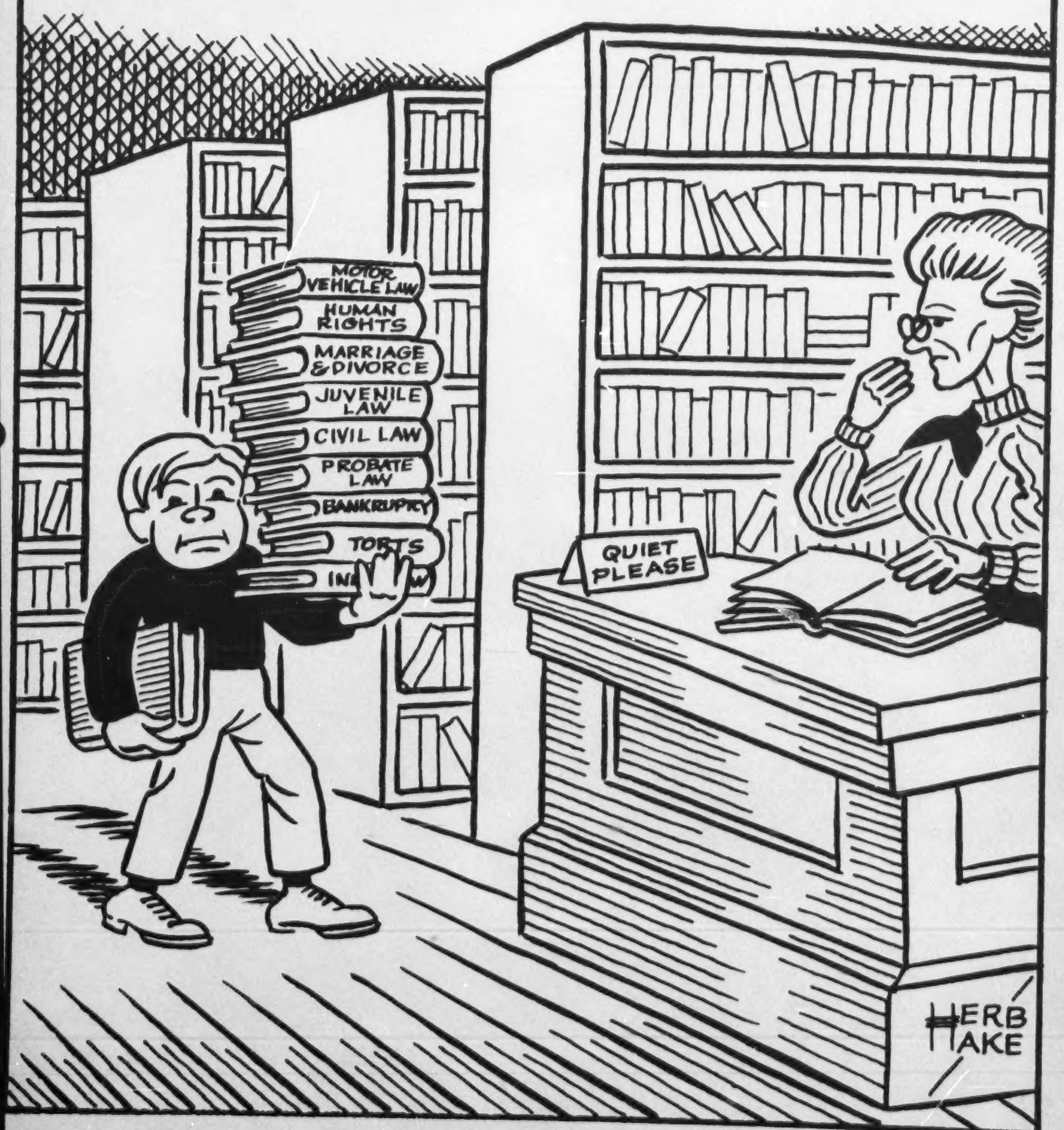
   a. Demonstrate knowledge about rehabilitation.

   b. Determine the implications of recidivism.

   c. Demonstrate an awareness of various correctional procedures used to change the behavior of residents.

   d. Demonstrate an understanding of the conflict between security and rehabilitation as correctional procedures.

APPENDICES


MOTOR VEHICLE LAW
HUMAN RIGHTS
MARRIAGE & DIVORCE
JUVENILE LAW
CIVIL LAW
PROBATE LAW
BANKRUPTCY
TORTS
QUIET PLEASE
HERB HAKE

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APPENDIX A

BIBLIOGRAPHY OF RESOURCES*

LAW-RELATED RESOURCES

I. ORIGINS AND CONCEPTS OF LAW

Materials on the history of law--in general--and in America basic concepts such as freedom, ownership and need for rules are included.

Deming, Richard
Man Against Man: Civil Law at Work. New York, Dell Publishing Co., Inc 1972. 208 p. (gr. 10-adult) (paper)
Explains origins of civil law and how it works in the U.S.

Forman, James A.
Law and Disorder. New York, Thomas Nelson, Inc., 1972. 224 p. (gr. 9-12)
Traces beginning and growth of law and punishment--includes freedom of speech and press. Glossary of legal terms.

Fuller, Jon
The Morality of Law. New Haven, Yale University Press, 1973. (gr. 11-adult)
A discussion of the origins of law from social customs to written law.

II. MAKING AND CHANGING LAW

This section includes materials on the legislative process, judge-made law, citizens' responsibilities and media's role in changing law.

Dissent and Protest; Case Studies for Student Discussion. Middletown, Conn., Xerox Corp. (gr. 7-12)
Case studies help student decide which forms of protest are legitimate and which are not, and to what extent the majority should tolerate dissent.

III. HUMAN RIGHTS

Included in this section are materials on the rights of an individual guaranteed by the Constitution, law, foreign law, international agreement or custom of a society.

Alexander, Shana
State-by-State Guide to Women's Legal Rights. Los Angeles, Wolstonecraft, Inc., 1975. 224 p. (gr. 10-adult) (paper)
An orderly, logical explanation and listing of women's legal rights in many areas including marriage, divorce, adoption, employment, rape, death and taxes.

DeCrow, Karen
Sexist Justice: How Legal Sexism Affects You. New York, Vintage Books, 1975. 363 p. (gr. 10-adult) (paper)
An explanation of our legal system's prejudicial attitude against women in areas of labor, credit, wills, trusts, divorce, fair representation, education and criminal law.

Haberman, Martin
Student's Rights; A Guide to the Rights of Children, Youth and Future Teachers. Introduction by Robert W. Landry. Washington, Association of Teachers Educators, 1973. 35 p. (ATE Bulletin 34)

It's Your Right: The Law Says. . .(388-11986) Washington, D.C., National Education Association, n.d. (gr. 7-12)
The package explores the rights of all of us, specifically those of minors. The filmstrip examines the difference between misdemeanors and felonies; simulates an arrest and the procedure that follows. There is a cassette, recording the highlights of an open discussion between a lawyer intimately involved with the rights of youth and six young protagonists. Also included is a copy of the *Code of Student Rights and Responsibilities;* the result of a National Education Association task force investigation on student involvement. Also, a package of *Your Child and the Law*

(30 leaflets for distribution to parents). There are 20 copies of *How to Build Better Courts* for classroom use.

Levine, Alan H. with Eve Carey and Diane Civoky
The Rights of Students. New York, E.P. Dutton Co., Inc., 1974. 160 p. (gr. 9-12) (paper) (ACLU Handbook Series)
This guide sets forth students' rights under present law and offers suggestions on how to protect students' rights. Question-answer approach.

The Bill of Rights in Action: Story of a Trial. California, BFA Educational Media, n.d. 22 min., color/black and white (gr. 10-adult)
The film follows two young men through their trial. It is a realistic introduction to the procedures which protect the rights of all citizens, as guaranteed by our Constitution.

*This section is a partial reprint from the State of Pennsylvania's publication, *Bibliography of Law-Related Education Resources*, 1975. Permission has been granted to reprint from the Pennsylvania Department of Education. Inclusion of this reprint should not be looked upon as a recommendation for purchase by staff members or districts. Inquiries for ordering materials found in this section should be directed to the publisher given in the citation. Addresses of these publishers can be found by turning to Section 2 of Appendix A, pp. 6-9

IV. LAW ENFORCEMENT AND PREVENTION OF CRIME

This section lists materials on police, the criminal justice system, and others involved in the enforcement of law.

V. RESOLUTION OF CONFLICT

Included in this section are materials concerning trial process, courts, arbitrations and the need for mechanisms to deal with conflicts in society.

American Bar Association
Law and the Courts; A layperson's handbook of court procedures, with a glossary of legal terminology. 35 p. (gr. 9-adult) (paper)
Explains how a case gets to court and what happens during the trial.

American Bar Association. Legal Advisory Committee on Fair Trial and Free Press.
The Rights of Fair Trial and Free Press; information manual for the bar, news media, law enforcement officials and courts. Chicago, 1969. 28 p. (gr. 7-adult) (paper)
States and explains the ABA Standards for fair trial and free press.

Mock Civil Trial. Harrisburg, Dauphin County Bar Association, 1974. (gr. 10-12) (free)
Script for a play to show the various actors in the courtroom and their function in the trial process.

Mock Civil Trial, Mae Besad, Administratrix of the estate of Ursel Besad. Deceased vs. Riden Bus Company. Pittsburgh, Penn., Allegheny County Bar Association (gr. 10-12) (free)
Script for a mock trial. Many words and court procedures are explained in the course of the trial.

Point of Law. St. Paul, Minn., 3M. Game (gr. 4-12)
A Bookshelf Game to teach court procedure. Over 100 cases are included.

Ratcliffe, Robert H.
Great Cases of the Supreme Court. Revised. Trailmarks of liberty. Houghton Mifflin Co., 1975. 131 p. (gr. 7-8) (teacher guide)
Presents famous cases on freedom of religion and expression, search and seizure, slavery and citizenship, etc. Discussion questions, glossary, mock trial, trial transcripts are included.

VI. TREATMENT OF OFFENDERS

Included in this section are materials on probation, parole, correctional institutions, and consequences of a conviction record.

VII. CIVIL AND EVERYDAY LAW

Practical guides to the law are included in this section.

Reader's Digest
You and the Law. New York, Reader's Digest, distributed by Norton, 1972. (gr. 10-adult)
Practical guide to everyday law including the meaning of law, rights, civil law. A list of outdated laws is included.

Swiger, Elinor Porter
The Law and You. New York, The Bobbs-Merrill Co., Inc., 1973. 138 p. (gr. 10-up)
Explains the law in light of everyday actions as it relates to minors, such as buying a defective item, finding lost property, custody in divorce proceedings.

Webb, Elizabeth J.
Majority at 18. West Haven, Conn., Pendulum Press, Inc., 1973. (gr. 9-12)
A practical guide to the new rights and responsibilities of teenagers. Includes contracts, school work, insurance, marriage and liquor.

VIII. CRIME IN SOCIETY

These materials explore the behavior considered unacceptable by society.

IX. JUVENILES AND THE LAW

Material concerning minors and the law have been listed here in addition to their strict subject classification. Materials on juvenile court procedure are also listed here.

Cuban, Larry
Youth as a Minority; an anatomy of student rights. National Council for the Social Studies, 1972. 142 p. (teacher) (paper)
Views of students' rights and statutes by students and educators. Emphasizes the need for individual rights and democracy in the educational system.

Haberman, Martin
Students' Rights; A Guide to the Rights of Children, Youth and Future Teachers. Instruction by Robert W. Landry, Washington, D.C., Association of Teacher Educators, 1973. 35 p. (ATE Bulletin 34)

Justice for Children. New York, National Council of Jewish Women. (gr. 10-12)
A guide to a study of the juvenile justice system in your community. Includes sample questionnaires, bibliography.

Levine, Alan H. with Eve Carey and Diane Civoky.
The Rights of Students. New York, E.P. Dutton/Avon, 1974. 160 p. (gr. 9-12) (paper) (ACLU Handbook series)
This guide sets forth students' rights under present law and offers suggestions on how to protect your rights. Question and answer format.

Sharaba, Joseph J.
Youth, Law and Life. Wyoming, Pa., Wyoming Area School District, 1971. 210 p. (gr. 5-6)
Introductory text which primarily deals with crime, law enforcement, family law and environmental law.

Swiger, Elinor Porter
The Law and You. New York, Bobbs-Merrill, 1973. 138 p. (gr. 10-adult)
Explains the law in light of everyday actions as relates to juveniles such as buying a defective item, finding lost property, custody in divorce proceedings.

X. GENERAL REFERENCE

Included in this list are legal reference tools, legal dictionaries and teacher aids.

Gerlach, Ronald A. and Lynne W. Lamprecht
Teaching About the Law. Cincinnati, W.H. Anderson Co., 1975. 354 p. (teacher)
Handbook for teaching law-related education.

Law in American Society. Journal of the National Center for Law Focused Education. Chicago, Law in American Society Foundation. Periodical (teacher) (free)
Each issue includes interesting articles, up-to-date information and teaching strategies.

Law Related Education: A Teacher Resource. Philadelphia, Philadelphia School District. In cooperation with Philadelphia Young Lawyers Association, 1974. (teacher)
A teacher resource book explaining the rights and responsibilities of students in Pennsylvania. Much civil law is included.

XI. SERIES

Included in this section is a list of a "series-type" law-related curriculum resources.

Public Affairs Pamphlets. New York, Public Affairs Committees. (gr. 7-12)
Titles available are:
- Challenge of Crime
- The Juvenile Court Comes of Age
- What We Can Do About Drug Abuse
- Equal Justice for the Poor Man
- Buyer, Be Wary
- What About Marijuana
- Law and Justice
- School Failure and Dropouts
- The Delinquent and the Law

Scriptgraphic Booklets. Greenfield, Mass., Channing L. Bete Co., Inc. (gr. 5-12)
Titles available include:
- About Law
- About the Constitution
- About Government
- About the U.S. Judicial System
- About the Bill of Rights
- The Law and You
- Know Your Legal Rights
- You and Your Lawyer

Summers, Robert S., A.B. Campbell and Gail Hubbard.
The American Legal System. New York, Ginn and Co., 1974. 64 p. (gr. 10-12) (teacher guide)
Presents basic legal concepts relevant to social studies through use of real and hypothetical cases. Titles of set are:
- Society's Need for Law
- Techniques of Law
- Law and Social Change
- Constitutional Protection of Basic Social Values
- Limits of the Law

APPENDIX A

LISTING OF PUBLISHERS

ACROPOLIS BOOKS LTD.
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Washington, D.C. 20009

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Hollywood, California 90028

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New York, New York 10022

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Boston, Massachusetts 02210

AMERICAN BAR ASSOCIATION
1155 E. 60th Street
Chicago, Illinois 60637

AMERICAN BOOK CO.
Division of Litton Educational Publishing, Inc.
450 W. 33rd Street
New York, New York 10001

AMERICAN CIVIL LIBERTIES UNION
22 E. 41st Street
New York, New York 10016

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Education Center
Columbus, Ohio 43216

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646 Main Street
Cincinnati, Ohio 45201

ARBOR HOUSE PUBLISHING CO.
641 Lexington Avenue
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216 Park Avenue South
New York, New York 10003

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122 E. 42nd Street
New York, New York 10017

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Santa Monica, California 90404

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New York, New York 10003

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666 5th Avenue
New York, New York 10019

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Division of Harper & Row Publishers, Inc.
10 E. 53rd Street
New York, New York 10022

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113 Crossways Park Drive
Woodbury, New York 11797

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72 Fifth Avenue
New York, New York 10011

BENEFIC PRESS
10300 W. Roosevelt Road
West Chester, Illinois 60153

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866 Third Avenue
New York, New York 10022

BOBBS-MERRILL CO., INC.
4300 W. 62nd Street
Indianapolis, Indiana 46268

ROBERT J. BRADY CO.
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Bowie, Maryland 20715

BUREAU OF NATIONAL AFFAIRS
1231 25th Street, N.W.
Washington, D.C. 20037

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200 Madison Avenue
New York, New York 10016

CENTER FOR INFORMATION ON AMERICA
Washington, Connecticut 06793

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Greenfield, Massachusetts 01301

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1300 Alum Creek Drive
Columbus, Ohio 43216

CHILDREN'S PRESS, INC.
1224 W. Van Buren Street
Chicago, Illinois 60607

CHILTON BOOK CO.
411 Walnut Street
Philadelphia, Pennsylvania 19106

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CHURCHILL FILMS
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Los Angeles, California 90069

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Long Island, New York 11530

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New York, New York 10003

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425 N. Michigan Avenue
Chicago, Illinois 60611

EXPOSITION PRESS
50 Jericho Turnpike
Jericho, New York 11753

FILMS INCORPORATED
1144 Wilmette Avenue
Wilmette, Illinois 60091

FOLLETT PUBLISHING CO.
Box 5705
1010 W. Washington Blvd.
Chicago, Illinois 60607

FOUNDATION OF THE FEDERAL BAR ASSOCIATION
1815 H Street, N.W.
Washington, D.C. 20006

FRANKLIN WATTS, INC.
845 Third Avenue
New York, New York 10022

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School of Law
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San Francisco, California 94105

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Pacific Palisades, California 90272

GROSSETT & DUNLAP, INC.
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757 Third Avenue
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1825 Willow Road
Northfield, Illinois 60093

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750 Third Avenue
New York, New York 10017

HILL AND WANG, INC.
Division of Farrar, Straus & Giroux, Inc.
19 Union Square
New York, New York 10003

HOLT, RINEHART AND WINSTON
383 Madison Avenue
New York, New York 10017

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110 Tremont Street
Boston, Massachusetts 02107

ILLINI BOOKS
University of Illinois
715 S. Wright Street
Champaign, Illinois 61822

JULIAN MESSNER, IOWA BAR ASSOCIATION
Division of Simon and Schuster
1 W. 39th Street
New York, New York 10018

APPENDIX A

KENNIKAT PRESS
90 S. Boyls Avenue
Port Washington, New York 10050

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Aqueduct Building
Rochester, New York 14603

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Education Division
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Belmont, California 94002

LERNER PUBLICATIONS
Minneapolis, Minnesota 55401

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750 Adrian Way
San Rafael, California 94903

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Philadelphia, Pennsylvania 19105

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Boston, Massachusetts 02106

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West Caldwell, New Jersey 07006

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866 Third Avenue
New York, New York 10022

MELMONT PUBLISHERS, INC.
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Chicago, Illinois 60607

NATIONAL COUNCIL FOR THE SOCIAL STUDIES
1206 16th Street, N.W.
Washington, D.C. 20036

NATIONAL EDUCATION ASSOCIATION
1201 16th Street, N.W.
Washington, D.C. 20036

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401 N. Front Street
Harrisburg, Pennsylvania 17108
Attn: Theodore Stellwag, Director of Public Information

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WESTMINISTER PRESS
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135 W. 150th Street
New York, New York 10039

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Wyoming, Pennsylvania 18644

XEROX EDUCATION PUBLICATIONS
Education Center
Columbus, Ohio 43216

YALE UNIVERSITY PRESS
92 A Yale Station
New Haven, Connecticut 06520

APPENDIX B

IOWA MOTOR VEHICLE LAW

WHAT TO DO IN CASE OF AN ACCIDENT:

I. STOP--Iowa law requires the driver of a car involved in an accident where there is personal injury or property damage to immediately stop the car at the scene of the accident or as close as possible without obstructing traffic.

II. ASSIST THE INJURED--Make arrangement for anyone seriously injured; do not move an injured person unless you know what you are doing.

III. PROTECT THE SCENE--Take precautions to prevent further accidents; station someone to warn away approaching vehicles.

IV. CALL AN OFFICER--Even where there are apparently no personal injuries or serious damages to property, it is advisable to give notice immediately to an officer so he can investigate the accident. His official report may greatly assist you later if any claim for liability is made.

Iowa law requires only that you give your name, address and the registration number of the vehicle you are driving and that you exhibit your chauffeur's or operator's license.

V. COMMENTS--Do not comment on the accident. Keep your notes and information strictly to yourself. Admit nothing and sign nothing even if you think you are in the wrong. You may learn later that you were not in the wrong or that the other driver was equally to be blamed or more so. Your emotions at the time of the accident may deceive you. If at a later date facts clearly show that you alone were wrong, then is the time to admit blame.

VI. ASSIST THE OFFICER--Remain at the scene, unless injured, until the officer arrives. Cooperate with the officer by advising him of the basic facts briefly. Remember: no one can force you to give an opinion as to the cause of the accident either at the scene, at police headquarters, or elsewhere. You have the right to consult a lawyer before making any statement. If it is a serious accident, consult him as quickly as possible.

VII. IDENTIFY THE OTHER DRIVER--Obtain the other driver's name, address and the registration number of the vehicle he is driving, and request him to exhibit to you his driver's license.

VIII. WITNESSES--Obtain the names and addresses of any and all witnesses as soon as you can--both eye-witnesses and all others who might have some information about any of the circumstances of the accident. After writing down their names and addresses, attempt to obtain from these witnesses a statement as to what happened and have them, if they will, write it down at the scene. Always have a pencil and pad in the glove compartment of your car.

IX. TAKE NOTES-DIAGRAM THE AREA--Make your own written notes on all significant circumstances concerning the accident. Show position of cars after the accident. Step off exact distances of skid marks and other distances. Be certain that you can at a later date point on the road where the vehicles collided and where they came to a stop. If you or someone else has a camera at the scene, take pictures to reserve skid marks, position of cars, and other physical evidence that will disappear after the accident.

X. ARRESTS--An arrest at the scene of the other party or yourself does not necessarily indicate liability. An arrest and conviction in connection with an automobile accident cannot ordinarily be used against you later in a suit for damages. Any statement made may be used as an admission, so it is important that you contact your lawyer as soon as possible before making any statements.

XI. WHEN TO LEAVE THE SCENE--Unless your injuries impel you to do otherwise, do not leave the scene of the accident until you have, as outlined previously, assisted the injured, protected the scene, called an officer and assisted him, identified the other driver, obtained the names, addresses, and statements of all witnesses and made notes.

XII. REPORTS--Iowa law requires that the driver of a vehicle involved in an accident (inside or outside of a city) resulting in personal injury or death to anyone or resulting in damage to property of anyone, including himself, in excess of Two Hundred, Fifty Dollars must, within 72 hours after the accident, file a written report with the Iowa Department of Public Safety on forms provided by the department.

XII. REPORTS--Iowa law requires that the driver of a vehicle involved in an accident (inside or outside of a city) resulting in personal injury or death to anyone or resulting in damage to property of anyone, including himself, in excess of Two Hundred, Fifty Dollars must, within 72 hours after the accident, file a written report with the Iowa Department of Transportation on forms provided by the department.

SUMMARY OF POINTS TO REMEMBER:

I. You must give your name, address, the registration number of the car you were driving, and, if you are not the owner of the car, the name and address of the owner, to any person injured, the owner of the other car, and any police officer at the scene.

II. No one may force you to give opinions of the cause of the accident, either on the scene or at the police station. You have a right to see your attorney before making any statement. You are not required to give any information other than that set out in A, above. DO NOT give any opinion as to the cause of the accident. If you are arrested and required to appear on a traffic charge, you should obtain the advice of an attorney before admitting guilt or liability.

III. If possible, do not move your car until the police arrive. However, you should not leave your car in a dangerous position in the road.

IV. Get the names and addresses of the driver and passengers of the other cars involved and also of all witnesses to the accident.

V. Make notes of all circumstances concerning the accident. Sketch the positions of the cars before, after and at the time of the accident. Step off skid marks. Make notes of all physical damage to your own and other cars.

VI Do not make or accept any payments of money for damage or injury without legal advice. Do not sign any statements without consulting a lawyer.

APPENDIX C

IOWA MOTOR VEHICLE INSURANCE

LIABILITY--(1) Bodily Injury Liability (B.I.)--Pays for injuries you may cause **others** and for which you are all to blame.

(2) Property Damage Liability (P.D.L.)--Pays for damage you may do to the property of **others** and for which you are all to blame.

COLLISION--Pays for damage to **your** car, no matter who was to blame or how it happened.

COMPREHENSIVE--Pays for damage to **your** car from fire, wind, theft, and other losses not covered as collision or upset.

TOWING AND LABOR--Pays for road service charges.

MEDICAL PAYMENTS--Pays hospital and medical expenses for **you** and for the passengers in **your** car.

UNINSURED MOTORIST--Pays **you** for **your** injuries you were entitled to collect from another but couldn't because he was uninsured.

THE IOWA FINANCIAL RESPONSIBILITY LAW--This has been in Iowa for a long time. You sometimes hear people say that having auto insurance is compulsory. It isn't, and it's probably this law that the people are talking about but don't understand.

If you have an accident and **anyone** is hurt or the damage done to **any** property is over $250.00 you **must** make a report to the Iowa Department of Transportation. The report asks for detailed information about the accident and if you carry insurance.

If you don't have insurance, the State will ask you to put up cash or bond to show you are a financially responsible person. This means up to $25,000. If you can't prove a settlement and don't get the cash or bond, your driver's license is **automatically** suspended. This can happen even if you were not to blame for the accident! At this point nobody knows if you were to blame or not.

If you get insurance, cash or bond, and nobody gets a judgment against you, you can get your license back. A judgment against you has to be paid in **full** or you may **never** get your license returned to you.

Driving is a privilege, not a right. Insurance protects your privilege by guaranteeing your financial responsibility.

THE ASSIGNED RISK PLAN--The business of insurance operates on a very simple principal: The premiums of the **fortunate many** shall be used to pay the losses of the **unfortunate few.** More accidents mean more unfortunates and fewer fortunates. That's when the trouble starts.

Some drivers aren't exactly unfortunate. They are just poor drivers who are bound to have an accident sooner or later. These are the drivers who make things tough for the other policyholders.

Insurance companies sometimes try to weed these bad drivers out. A company may decide that a certain driver is sure to have an accident, and cancel him before it happens.

If a company cancels you these days, it's almost impossible to get another to take you on for at least a year or two. Does this mean that you have to be an uninsured driver? No indeed. This is what the Assigned Risk Plan is for. However, the assigned risk plan is **very costly** for only minimal coverage.

THE COST OF INSURANCE--Insurance is a business. It's a business of transferring your risk to an insurance company. It takes good management to run any good business. Your premium is the price you pay for having good management take over your risks and pay for your losses.

APPENDIX D

SCHOOL LAWS OF IOWA

(PERTAINING TO SOCIAL STUDIES INSTRUCTION)

CODE OF IOWA.

EDUCATIONAL STANDARDS. The following are excerpts from Section 257.25 relating to social studies.

257.25(3) The following areas shall be taught in grades one through six: . . .social studies, including geography, history of the United States and Iowa with attention given to the role in history played by all persons, and a positive effort shall be made to reflect the achievements of women, minorities, and any others who, in the past, may have been ignored or overlooked by reason of race, sex, religion, physical disability, or ethnic background, cultures of other peoples and nations, and American citizenship, including the study of national, state, and local government in the United States. . .

257.25(4) The following shall be taught in grades seven and eight as a minimum program: . . .social studies with attention given to the role in history played by all persons, and a positive effort shall be made to reflect the achievements of women, minorities, and any others who, in the past, may have been ignored or overlooked by reason of race, sex, religion, physical disability, or ethnic background, cultures of other peoples and nations, and American citizenship. . .

257.25(6) In grades nine through twelve, a unit of credit shall consist of a course or equivalent related components or partial units taught throughout the academic year. The minimum program for grades nine through twelve shall be: . . .

Four units of the social studies. American history, American government, government and cultures of other peoples and nations, and general consumer education, family law, and economics, including comparative and consumer economics, shall be taught in the units but need not be required as full units. All students shall be required to take one unit of American history which shall give attention to the role in history played by all persons, and a positive effort shall be made to reflect the achievements of women, minorities, and any others who, in the past, may have been ignored or overlooked by reason of race, sex, religion, physical disability, or ethnic background and one-half unit of the governments of Iowa and the United States, including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot.

The county auditor, upon request and at a site chosen by him, shall make available to schools within the county voting machines or sample ballots that are generally used within the county, at such times that these machines or sample ballots are not in use for their recognized purpose.

APPENDIX E

SERVICE ORGANIZATIONS

1. AMERICAN BAR ASSOCIATION

Special Committee on Youth Education for Citizenship (YEFC)

Person to Contact: Norman Gross, Staff Director
Youth Education for Citizenship
American Bar Association
1155 East 60th Street
Chicago, Illinois 60637
(Phone: 312/947-3960)

Special Committee on Youth Education for Citizenship: YEFC was created by the American Bar Association in 1971 to foster high quality programs of law-related education in our nation's elementary and secondary schools. It does not seek to make amateur lawyers of students, but rather to prepare them for participation in a democracy by helping them gain a better understanding of our laws and legal system.

Publications: The American Bar Association Special Committee on Youth Education for Citizenship (YEFC) publishes a number of books and booklets on law-related education for elementary and secondary schools.

Directory of Law-Related Educational Activities (1974, 82 pp.). A collection of articles on the rationale and objectives of law-related education. FREE (We reserve the right to limit quantities).

Reflections on Law-Related Education (1973, 16 pp.). A collection of articles on the rationale and objectives of law-related education. FREE (We reserve the right to limit quantities).

Curriculum Catalogues

Bibliography of Law-Related Curriculum Materials: Annotated (1976, 116 pp.). Descriptions of more than 1,000 books and pamphlets for classrooms, K-12 and teacher reference. $1.00

Gaming: An Annotated Catalogue of Law-Related Games and Simulations (1975, 32 pp.). Descriptions of more than 130 games and simulations for classrooms, K-12, and teacher reference. $1.00

Media: An Annotated Catalogue of Law-Related Audio-Visual Materials (1975, 79 pp.). Descriptions of more than 400 films, filmstrips, and tapes for classrooms, K-12, and teacher reference. $1.00

SPECIAL DISCOUNT–All three catalogues for $2.00

Publications on Program Development

The $$ Game: A Guidebook on the Funding of Law-Related Educational Programs (1975, 68 pp.). Articles on identifying funding sources, writing funding proposals, securing community support, and institutionalizing programs. $1.00

2. IOWA STATE BAR ASSOCIATION
Young Lawyers Section

Person to Contact: Marvin E. Duckworth
5th Floor Central National Bank Building
Des Moines, Iowa 50309
Telephone: (515) 244-0111

Purpose: The young lawyers of the Iowa State Bar Association have sponsored a committee on high school law education to assist educators in dealing with law related subjects with their students.

Activities: The Bar Association has participated in law day activities annually and has prepared programs for Boys State. Plans are under development to identify more members of the Bar Association to assist local teachers in the classroom.

3. IOWA CIVIL LIBERTIES UNION

Person to Contact: Howard Weinberg
Iowa Civil Liberties Union
102 East Grand, Suite G100
Des Moines, Iowa 50309

Purpose: The Iowa Civil Liberties Union is a citizen-action group whose purpose is to uphold the Constitution of the United States--particularly the First, Fourth, Fifth, and Fourteenth Amendments; to defend freedom of expression, religion, association, and protect rights to due process, privacy, and equal protection of the law; and to educate the public to constitutional issues. ICLU endorses neither candidates nor parties. It does initiate, influence, and comment upon legislation; it does challenge unconstitutional legislation; it does defend those whose constitutional rights have been violated, in State and Federal Courts. It charges no fee for these services, and its legal expertise is almost entirely donated by lawyers who believe in the Bill of Rights.

Membership: The Iowa Civil Liberties Union, like its parent organization, the American Civil Liberties Union, is supported by contributions from its members--for the most part non-lawyers--who believe in the Bill of Rights, the Constitution, and the freedoms which they protect. Members also do a great deal of volunteer work and serve on the Chapter and State Boards which determine policy and take cases.

Publications: ACLU and its 49 state affiliates publish a wide range of materials. Among these are:

The Pulse of Freedom--American Liberties: 1920-1970 by Alan Reitman, Associate Director, ACLU

"The Rights of . . ." series--Each book in this series explains, in question and answer format, the rights of a particular group of people--the following have so far been released:

The Rights of Students, Reporters, Hospital Patients, Teachers, Suspects, Candidates and Voters, Prisoners, Poor, Women, Gay People, Mental Patients, and Servicemen.

"Civil Liberties"--The Newsletter of the American Civil Liberties Union--covers current cases and issues across the country, before the Supreme Court and in the Congress--available to members and published quarterly.

APPENDIX E

"The Defender"–Newsletter of the Iowa Civil Liberties Union–covers civil liberties issues and ICLU activities–published six times a year.

The Civil Liberties Review–A quarterly journal of in-depth discussion of civil liberties issues.

Films:

The Bill of Rights–A Tale of Two Centuries. A series of six films dealing with civil liberties issues including:

The Ox-Bow Incident. Black and white, 90 minutes (1943), directed by William Wellman–a searing indictment of mob-rule and a probing examination of fair trial in the Old West.

Justice Under the Law: The Gideon Case. Color, 27 minutes (1969)

Free Press vs. Trial by Jury: The Shephard Case. Color, 27 minutes (1969)

These films present two of the best known court cases of the past twenty years involving basic Bill of Rights protection for the Defendant. In the Gideon Case, an historic decision was rendered by the Supreme Court insuring the right of counsel, to a person on trial. In Shephard, a notorious murder trial of a Cleveland doctor in 1954 ends in the Supreme Court, where the conflict between rights of the accused and freedom of the press is decided.

The Bill of Rights in Action: Equal Opportunity. Color, 22 minutes (1970)

The Bill of Rights in Action: Freedom of Speech. Color, 21 minutes (1968)

The Right to speak freely is examined in a case where an unpopular and offensive political group claim the protection of the First Amendment. Equal opportunity is analyzed in a case involving hiring and promotion practices in a factory.

Legacy of a Dream. Color, 29 minutes (1974)

A look at the life and work of Martin Luther King, with the famous "I Have a Dream" speech.

The Right to speak freely is examined in a case where an unpopular and offensive political group claim the protection of the First Amendment. Equal opportunity is analyzed in a case involving hiring and promotion practices in a factory.

Legacy of a Dream, color, 29 minutes, (1974)

A look at the life and work of Martin Luther King, with the famous "I Have a Dream" speech.

Television:

The Rights of Americans TV Series.

Host: Franklyn S. Haiman, Professor of Communications Studies, Northwestern University, Member, Board of Directors of the ACLU.

10 ½ hour interviews with the authors of the "Rights of . . ." series.

4. IOWA INSTITUTE FOR LAW-RELATED EDUCATION

Person to Contact: Robert C. Dopf
Suite 700 West Towers
1200 - 35th Street
West Des Moines, Iowa 50265
Telephone: (515) 225-1125

Purpose: The Iowa Institute for Law-Related Education is a private non-profit corporation formed for the purpose of fostering, promoting and assisting in the development of law-related educational materials and programs.

Membership: The membership of the Institute is composed of teachers, school administrators and attorneys.

5. IOWA STATE DEPARTMENT OF PUBLIC INSTRUCTION

Person to Contact: Richard E. Gage
Consultant, Social Sciences
Curriculum Division
Iowa Department of Public Instruction
Grimes State Office Building
Des Moines, Iowa 50319
(Phone: 515/281-3517)

Consultative Services: The Department of Public Instruction provides social studies curriculum inservice to local education agencies (LEA'S), area education agencies (AEA's), institutions of higher learning, intergovernmental agencies and private organizations.

Publications:

* **Perspectives: A Social Studies Handbook for Secondary Teachers.** **Perspectives** was designed for secondary teachers who desire training in innovative social studies practices, materials, selection, and curriculum revision. It is also useful for administrators and other school personnel involved in curriculum planning. FREE

* **Presenter's Guide.** Is a companion inservice guide to **Perspectives.** The **Presenter's Guide** incorporates law-related education concepts as the content sample for moving the inservice presenter through eight meetings. FREE

Video-Cassette Tape Program: The Iowa Department of Public Instruction in cooperation with the Iowa Radio and Television Facilities Agency and the Iowa Institute for Law-Related Education is developing a series of eight twenty-minute video-cassette tapes in law-related education for use at the secondary level of instruction.

The major focus of the programs will be designed to provide teachers with knowledge of law-related content and educational methodology for utilization with students.

*NOTE: These two publications are available on microfiche at no cost to the reader. To order the microfiche request ED 116976 and ED11728 from Richard Gage at the address given above.

Iowa Network for Obtaining Resource Materials (INFORMS): INFORMS is located in the Media Section of the Iowa Department of Public Instruction. This national information system (ERIC Data Bank) can provide you with informative law-related curriculum material/projects for local curriculum planning and development.

To initiate a search request, a local teacher or administrator should contact the INFORMS field representative in his/her area education agency. INFORMS DPI office will then be notified by the field representative and the materials requested will be returned to the educator via the field representative.

Local school personnel, teachers, curriculum personnel and administrators are urged to use the ERIC reference material in locating curriculum materials/projects related to law-related education at their area education agency media center.

6. LEAGUE OF WOMEN VOTERS OF IOWA

Person to Contact:

Louise Moon
President
League of Women Voters of Iowa
610 Capital City Bank Bldg.
Des Moines, Iowa 50309
(Phone: 515/282-6897)

Publications: Publications listed below are from the League's publication catalog. The titles provided represent only a partial listing of publications available and are from a section of the publication catalog entitled, "Juvenile Justice."

The Juvenile Justice System in Iowa. 28 pp. A definitive analysis. $1.00. Publication number 733.

Juvenile Justice: Analysis and Alternatives. "The Iowa Juvenile Court," "The Rights of the Parties," and Editorial Comment. $1.00. Publication number 743.

Juvenile Justice: Disposition of Records. Background for study and consensus. 25 cents. Publication number 755.

(NOTE: Price for all publications includes third class postage. First class add 15%. Minimum order: 75 cents).

Local League Cities in Iowa:

Ames
Black Hawk-Bremer Counties (Cedar Falls, Waterloo, and Waverly)
Burlington
Cedar Rapids-Marion
Dubuque
Fairfield
Fort Dodge
Fort Madison
Grinnell
Hamilton County (Webster City)
Indianola-Warren County

APPENDIX E

Johnson County (Iowa City)
Keokuk
Le Mars
Marshalltown
Metropolitan Des Moines
Monticello
Mount Pleasant
Mount Vernon
Muscatine
Newton
Oskaloosa
Ottumwa
Pella
Scott County (Davenport and Bettendorf)
Sioux City
Spencer

"LAW - FOCUSED EDUCATION - IOWA"

PRODUCT EVALUATION FORM

Name _____ Title _____

School _____ Address _____

City _____ State _____ Zip _____

A. GENERAL

1. Please indicate the course(s) in which you utilized this publication.

_____

_____

2. What additional topics would you suggest be developed for your needs? e.g., Consumer Law, Family Law, Housing Law, Criminal Law (Juvenile Justice), etc.

_____

_____

3. Would the development/dissemination of a K-12 assessment instrument for law-related competencies be useful to you?

_____ Yes _____ No

Comment:

4. Is inservice for law-focused education a need for you?

_____ Yes _____ No

Comment:

5. What learning strategies other than "the case study approach" would you suggest for use in motivating students?

_____ Simulated Trials

_____ Visit to Courtroom or Magistrate Court

B. SPECIFIC PRODUCT INFORMATION

1. Teacher Interest Inventory. Rank the topics below in order of interest to the *teacher*. (Number 1 is the greatest interest, number 2 is the 2nd greatest, and so on).

   _____ Civil Law
   _____ Injury and Property Damage
   _____ Love and Marriage
   _____ Motor Vehicle Torts
   _____ Personal Finances
   _____ Students and School
   _____ What Happens in Court
   _____ World of Work

2. Student Interest Inventory. Rank the topics below in the order of interest to the *student*. (Number 1 is the greatest interest, number 2 is the 2nd greatest, and so on).

   _____ Civil Law
   _____ Injury and Property Damage
   _____ Love and Marriage
   _____ Motor Vehicle Torts
   _____ Personal Finances
   _____ Students and School
   _____ What Happens In Court
   _____ World of Work

3. Were the number of "case studies" provided as "Problems" in each topic area sufficient for your/the student's use?

   _____ Yes _____ No

   Comment:

4. Was the "case study" approach successful in stimulating CR discussion?

   _____ Yes _____ No

   Comment:

5. Did you make use of community resources in teaching Law - Focused Education - Iowa? e.g., Attorneys, police, judges, etc.

   _____ Yes _____ No

   Comment:

6. Are materials of this type better received by the students than the traditional text?

Yes No

Comment:

7. Can these materials stand alone or are other materials required?

Comment:

8. What problems have you encountered with these materials?

Comment:

Additional Comments:

Thank you for filling out this questionnaire. We plan to put it to good use in future publications. Please return this form to: Richard E. Gage, Curriculum Division, Department of Public Instruction, Grimes State Office Building, Des Moines, Iowa 50319.